Preparation of this data base was made possible in part by the financial support of the
National Institute of Chiropractic Research
2950 North Seventh Street, Suite 200, Phoenix AZ 85014 USA
(602) 224-0296; www.nicr.org

Notes on Wilk et al. vs. AMA et al.

word count: 24,869
filename: Wilk CHRONO 04/05/16

Joseph C. Keating, Jr., Ph.D.
6135 N. Central Avenue, Phoenix AZ 85012 USA
(602) 264-3182; JCKeating@aol.com

Color Code:
Red: questionable or uncertain information
Green: for emphasis

Year/Volume Index to the *Journal of the National Chiropractic Association* (1949-1963), formerly *National Chiropractic Journal* (1939-1948), formerly *The Chiropractic Journal* (1933-1938), formerly *Journal of the International Chiropractic Congress* (1931-1932) and *Journal of the National Chiropractic Association* (1930-1932):

Year	Vol.	Year	Vol.	Year	Vol.	Year	Vol.
		1941	10	1951	21	1961	31
		1942	11	1952	22	1962	32
1933	1	1943	12	1953	23	1963	33
1934	3	1944	14	1954	24		
1935	4	1945	15	1955	25		
1936	5	1946	16	1956	26		
1937	6	1947	17	1957	27		
1938	7	1948	18	1958	28		
1939	8	1949	19	1959	29		
1940	9	1950	20	1960	30		

CHRONOLOGY

1938 (Jan): ***The Chiropractic Journal*** (NCA) [7(1)] includes:
-photograph (p. ?):

WHAT DOES THE A.M.A. HAVE AGAINST THIS MAN ?
THIS MAN IS DANGEROUS I TELL YOU. HE GETS SICK PEOPLE WELL WITH ONLY HIS HANDS—NOT ONE BUT THOUSANDS—IT'S TERRIBLE! HE SHOULD BE LOCKED UP. WHY HE IS HURTING MY BUSINESS—SO MANY PEOPLE HAVE FAITH IN HIM — MY BUSINESS WILL DOUBLE AS SOON AS YOU LOCK HIM UP!
CHIROPRACTIC
MEDICAL TRUST
THE PUBLIC
IF I CANT GET YOU WELL YOU SHOULD DIE
POLITICO-MEDICOS
MEDICAL MISTAKES
WRONG DIAGNOSIS
SUFFERING HUMANITY

1938 (Sept): ***The Chiropractic Journal*** (NCA) [7(9)] includes:
-Julius Dintenfass, D.C. authors "U.S. charges American Medical Association as health trust; A.M.A. prevented patients from having doctors of their own choice; Department of Justice seeks criminal indictment for violation of anti-trust laws" (pp. 25-7)

1939 (Jan 14): letter from Hugh B. Logan, D.C. on LBCC stationery to Vinton F. Logan, D.C. and wife Peg at Jefferson Hotel in Dallas TX (Logan Archives); includes:
Dear Dr. Vinton and Peg:
…I have attended four evening meetings this week in connection with the **Basic Science** bill. I am speaking at the mass meeting tonight, after which I will leave for Springfield by train…
I am enclosing a copy of the publication just issued in an effort to help defeat the **Basic Science** bill…
We are attempting to initiate a program that will take our problems to the Federal government. We feel that we can

accomplish this by charging that medical interference is a violation of the Sherman anti-trust laws, is not in keeping with the Interstate Commerce Act, and is a violation of our Constitutional rights. I am sure that this is the only way we can settle the Basic Science problem sensibly…

Hugh B. Logan, D.C., President

1940 (June): ***National Chiropractic Journal*** [9(6)] includes:

-"A doctor's rights" (p. 51):

The Journal of the American Medical Association, in its current issue, carries an editorial attack on the Government's action against the A.M.A. for violation of the Sherman anti-trust act.

The issue involved, says the editorial, is "whether or not our democracy as now existing is capable of meeting the needs of civilized man or whether some completely new social scheme is going to be necessary to satisfy those officials of government who have taken on themselves the task of creating a new order."

Those are exciting words. So far as we can see they have nothing to do with the case.

The A.M.A. and its co-defendants, two affiliated medical societies and a number of individual doctors are charged with having tried to put out of business a co-operative organization, Group Health Association, Inc., which was formed to provide low-cost medical care and hospitalization for a body of government employees.

The United States Circuit Court of Appeals at Washington has ruled that the medical societies must stand trial under the anti-trust laws; that a restraint upon the lawful practice of medicine is just as much a "restraint of trade" as if it were directed against any other occupation, employment or business.

The A.M. A feels the Court's decision jeopardizes the "right of any professional group to regulate its own conduct and even to determine its own membership." But there is no implication, in the Government's action of in the Court's decision, that the A.M.A. cannot set up standards of ethics or deny membership to doctors who fail to meet the prescribed standards.

It is quite another matter to hinder the successful operation of the Group Health Association by harassing doctors and by urging private hospitals not to receive patients. The Circuit Court holds that such practices, if they can be proved, are a violation of the anti-trust laws.

A doctor has a right to practice medicine according to the law and be paid for his services according to any lawful plan, however much the A.M.A. dislikes co-operative, risk-sharing medical service. The prestige of the A.M.A. is done no good by irrelevant, alarmist editorials in its official Journal. – Editorial in the March 16, 1940 issue of the New York Post.

1943 (Feb): ***National Chiropractic Journal*** [12(2)] includes:

-Loran M. Rogers, D.C. authors "Editorial" (p. 6); includes:

"Without courage there cannot be truth, and without truth there can be no other virtue"

The Supreme Court of the United States again demonstrated its independence and proved its devotion to democratic ideals when, on January 18, 1943, it upheld the conviction of the American Medical Association, and the District of Columbia Medical Society, and ruled that they were guilty of conspiracy to restrain trade in their fight against a Cooperative Health Association…

1947 (Aug): ***National Chiropractic Journal*** [17(8)] includes:

-"Murray-Wagner National Health Bill and Taft National Health Agency Bill; statement of Dr. Emmett J. Murphy, Director of Publications of NCA, Washington, D.C." (pp. 33, 66-7); which is statement to the U.S. Senate Committee on Labor & Public Welfare on S.1320 and S. 545, July 11, 1947

1948 (July): ***National Chiropractic Journal*** [18(7)] notes:

-W.W. MacGruder, National Campaign Director for CRF, authors letter to the editor of ***Medical Economics*** (pp. 62-3); includes:

Dear Sir:

We have read, with much interest: "WHAT THE CHIROPRACTORS ARE UP TO" in the June issue of Medical Economics. May I compliment your author, Dr. Weintrob, for a pretty good job of objective reporting, though the animus is apparent in repeated use of "cult" applying to Chiropractic.

Without criticizing, let me add, however, that Dr. Weintrob didn't tell the half of what chiropractors are up to; and if you care to send Dr. Weintrob or other correspondents for your publication to this office, I will be glad to supply the rest of the story – concerning the Chiropractic Research Foundation's 6-year, 9-point program to elevate the profession, establish charity clinics on a broader base, found more chiropractic colleges and build additional hospitals, weed out the unfit and seek proper public recognition for those Doctors of Chiropractic whose ethics and professional conduct comply with the high standards now effective.

Chiropractors are now in the "house cleaning" phase of progress that veteran medicoes will recall took place in their own profession not **too** long ago; and, to give M.D.'s credit, they are still trying to "mop up" the bad spots – quacks, patent medicine racketeers, abortionists, and malpractitioners of varied stripe. History is replete with the record of medical achievement against public scorn, disbelief; of the apathy displayed by "insiders" of the medical profession toward new discoveries. Sister Kenney, for instance. Go back to Lister, Pasteur, Jenner and other pioneers in the field. Osteopaths **were** anathema but are generally accepted by enlightened medicoes today who recognize that no one school of healing holds the panacea for all human ills. Christian Science has done wonders for neurotics. Chiropractic has accomplished cures where medical science failed. (I can document this statement!) The reverse is also true… Why bicker? Why not use the instruments at hand, whether they be shots in the arm to combat allergies, spinal manipulation to correct bodily structural faults (and their nerve or disease ramifications) mental science, helio-or-hydro therapy.

Chiropractic has been driven to a militant campaign for no other reason than that the medical fraternity forced the issue by ridicule, slander, half-truths, condescension and downright lies. This office is conducting the national program, previously mentioned, on a dignified plane, publicizing chiropractic accomplishments and making no secret of plans for a long-range pull. Our press releases carry no criticism of the medical profession. We seek primarily to serve the interests of the 30,000,000 U.S. individuals who know the merits of chiropractic and need to have their confidence sustained in the face of bitter and unfair attacks against the science that remedied, or relieved, their ailments.

Chiropractic is here to stay – like the automobile, concrete roads, psychiatrists, modern farming methods, osteopathy, and even the medical profession! It cannot be killed, discredited or stamped out. If the medicoes insist on making a dog-fight of it, the chiropractors will accept the issue. But it does seem there should be an easier way

In any event, if you want to know the entire story – the part Dr. Weintrob didn't tell because of space limitations or because he didn't know – we will be happy to supply it.

Very truly yours…

1949 (Sept): ***JNCA*** [19(9)] includes:
-Glenn E. Long, managing editor of ***Heathways Magazine*** in Webster City IA, authors "Convention sidelights" (p. 48); includes:

"Kight" wandering around, eyes abeamed and ears attuned, and making those mental notes, "Now, in 1995, when chiropractic observes its centennial, I'll write for the Journal, 'Remember in 1949 when we opened our convention in Chicago and then waited for the AMA to have us arrested and deported as undesirable aliens?'"

1949 (Dec): ***National Chiropractic Journal*** [19(12)] includes:
-reprint of article by Ruben Levin, from November 1949 issue of Machinists' Monthly Journal: "America's biggest lobby – the A.M.A." (pp. 27-8, 64, 66) (in my Wilk file)
-cartoon/photograph depicting AMA (p. 27):

Levin R. America's biggest lobby - the A.M.A. *Journal of the National Chiropractic Association* 1949 (Dec); 19(12): 27-8, 64, 66; reprinted from the November, 1949 issue of *Machinists' Monthly Journal*

1949: James R. Drain, D.C., president of Texas Chiropractic College, authors ***Man Tomorrow*** (Drain, 1949); includes chapter on "Legal defense: the persecution of chiropractic in Texas under the criminal code of the medical practice act" (in my Wilk file)

1950 (June): ***JNCA*** [20(6)] includes:
-"News flashes: Colorado" (p. 44); includes:

LAY GROUP UPBRAIDS MEDICS

The American Medical Association was attcked Friday by the South Denver Civic Association in a resolution which asked Congress to demand that the association "desist from its monopolistic and discriminatory attitude" toward doctors of chiropractic…

1952 (Apr): ***ICA Review*** [6(10)] includes:
-"Carbon copy by Underwood" (p. 18) includes:

Better watch the wording of those insurance policies carefully; if they contain a provision that hospitalization must be in a hospital registered with A.M.A. you can't collect if you take your patient to an osteopathic or Chiropractic hospital (Texas supreme court ruling) for the simple reason that all hospitals approved by the A.M.A. have adopted a rule that "Osteopaths, Chiropractors, and other non-medical practitioners may not be permitted to use the facilities of hospitals desiring to conform with these (A.M.A.) standards."

1953 (Mar): ***ICA Review*** [7(9)] includes:
-"A.M.A. prexy attacks; B.J. replies" (p. 20)
-"M.D. calls for counter-attack in Legion" (p. 21)

1953 (June): ***ICA Review*** (7[12]) includes:
-"News items" Weintrob lampoons 'Chiropractic Ballyhoo'" (p. 18):

by Associated Chiropractic Press

Morris Weintrob, M.D., writing in the April issue of *Medical Economics* says: "There's no Ballyhoo like Chiropractic Ballyhoo… with every promotional gimmick in the catalogue of huckstering – from testimonials to lawsuits to lobbying – the subluxation specialists are making a grandstand play for public favor." In the most sensational literary style of yellow journalism, Weintrob portrays the horrible consequences if his medical brethren fail to rally around the anti-Chiropractic banner. He says: "There's no escaping that fact that Chiropractic associations do a highly effective job in terms of service to members. If their energy, shrewdness, money, and devotion were used in a better cause, the M.D. would have to give them his unstinting admiration." Apparently Weintrob believes there's nothing wrong with "Chiropractic Ballyhoo" except "Chiropractic."

1953 (Nov): ***ICA Review*** (8[5]) includes:
-"New York grand jury submits resolution" (p. 28)

1953 (Dec): ***ICA Review*** (8[6]) includes:
-"Louisiana chiropractor jailed: Dr. Glenn Doty serves thirty days" (pp. 7, 31); includes photograph & caption:

Dr. Glenn L. Doty, (left) Marksville, La., is led to his cell in the Marksville jail by jailer Lee Brouillette to begin serving 30 days for violationof the state medical practice act.

1954 (Jan): ***ICA Review*** (8[7]) includes:
-"A.M.A. accused of breath of faith with servicemen" (p. 19)

1954 (Feb): ***ICA Review*** (8[8]) includes:
-"Battle rages between VA and AMA" (p. 21)

1954 (Apr): ***ICA International Review of Chiropractic*** [8(10)] includes:
-"Sabourin case reversed in New York" (p. 35):

A jury conviction against Dr. R.N. Sabourin of Flushing, N.Y. was reversed by the Appellate Division of the Supreme Court on February 1, 1954 because of errors of law. The case has been returned to the trial court for a new trial. Text of the opinion follows:

PEOPLE VS. SABOURIN

Appellate Division – Supreme Court, Second Department

By Nolan, P.J.; Adel, Wenzel, MacCrate and Beldock, J.J.

People, &c., res, v. Sabourin, ap – Judgment of the County Court, Queens County convicting defendant of the crime of wrongfully practicing medicine (Education Law secs. 6501, 6502 and 6513) reversed on the law and a new trial ordered. It was error to compel defendant, through his attorney to produce defendant's records and to receive such records in evidence over defendant's objection (People &c. v. Gibson, 218, N.Y., 70; People &c. v. Minkowitz, 220 N.Y., 399). It was also error to refuse to charge a defendant's requests numbered 5 and 7 (People &c. v. Maybrook, 301 N.Y. , 637; Matter of Sausser v. Dept. of Health, 242 N.Y., 66). We have examined the facts and would not reverse if it were not for the errors referred to, which, in our opinion, affected defendant's substantial rights.

Requested instruction No. 5 referred to in the opinion would have charged the jury that the designation "Chiropractor" on the office door, letterheads, etc., is not in violation of the law. Requested instruction No. 7 stated that the taking of an X-ray is not a diagnosis, and that Chiropractors have legal right to take or cause X-rays to be taken, and to explain what they show. Menahem Stim, Esq. acted as counsel for Dr. Sabourin.

The decision is being hailed as a significant improvement of the legal situation affecting Chiropractors in New York. – ACP.

1954 (June): ***ICA International Review of Chiropractic*** [8(12)] includes:
-"AMA head denounces chiropractic veteran care" (p. 10)

1954 (July 31 – Aug 1): minutes of "Meeting of the Board of Trustees of Logan Basic College of Chiropractic" (Logan Archives):

Discussion of recent A.M.A. activities followed. Dr. **Coggins read the recent A.M.A. letter to the Dean of Logan College** and then read the College reply. The Board fully approved of the reply. Dr. Logan reported that information obtained indicated that a similar letter had been sent to every Chiropractic college. Report made on the Missouri Medical Society's proposed legislation which would preclude future licensing of chiropractors in the state. General discussion on A.M.A. attempts to monopolize the healing arts and eliminate Chiropractic ensued. Dr. **O'Dell** presented form being used by the Physical Medicine Departments of the University of Michigan which evidenced that Chiropractic principles were being followed and adhered to, in some degree, in the handling of their patients. The Board agreed that vigilance is required for a successful future of Chiropractic…

-"Exhibit A" attached to minutes:

Copy of letter from American Medical Association, 535 Dearborn Street, Chicago 10, Illinois. On the letterhead of the Council on Medical Education and Hospitals.

July 8, 1954

To the Dean
Logan Basic College of Chiropractic
7701 Florissant Road
St. Louis 21, Missouri

Dear Sir:

The Council on Medical Education and Hospitals receives many inquiries regarding schools of Chiropractic and the training of chiropractic physicians. We have often been concerned that **our lack of factual knowledge** makes it difficult for us to give complete and accurate response to these inquiries.

We would very much appreciate an opportunity to have a representative of this Council visit with you to gain at first hand more accurate knowledge of your objectives and methods of attaining those objectives and at the same time facilitate the greatest degree of mutual understanding possible. It is our hope that you will look on this request with favor so that we can in the near future arrange a satisfactory date for this proposed visit.

Sincerely yours,
/s/Walter S. Wiggins
Walter S. Wiggins, M.D.

WSW:AT

Copy of letter from the Dean of Logan Basic College of Chiropractic, 7701 Florissant Road, St. Louis 21, Missouri in reply to above letter. On letterhead of Logan Basic College of Chiropractic.

July 19, 1954

Walter S. Wiggins, M.D.,
Associate Secretary of the A.M.A.
535 West Dearborn Street
Chicago 10, Illinois

Dear Dr. Wiggins:

We have your letter of July 8, 1954 requesting an opportunity to send a representative of the Council on Medical Education and Hospitals to visit our school with the objective of gaining more accurate knowledge of our objectives and methods and to facilitate a greater degree of mutual understanding. We would be glad to have your representative visit us for those purposes.

You state that your Council lacks factual knowledge with respect to Chiropractic education. We hope that you will send a representative who is not prejudiced for we note that resolutions adopted by the A.M.A., in spite of the lack of factual knowledge, state that, "Whereas, although we know that the basic tenets of *Chiropractic* to be without scientific basis*.", which indicates a prejudice rather than a knowledge. We would, of course, like to see your Council and Association have more accurate knowledge as generally prejudices disappear with knowledge.

We also note that the A.M.A. in conjunction with the Missouri Medical Society has announced its intention of abolishing Chiropractic licenses and schools and the intention of starting in the Missouri legislature. If your representative is merely a part of this conspiracy, it would do little good toward mutual understanding or the gathering of factual knowledge to have him visit our school with preconceived notions.

We hope that you understand our feelings in this matter. If your purpose is as is suggested by your letter, that of factual information and mutual understanding, we welcome you with open arms but if it is for the destruction of Chiropractic, we feel that you would be not only wasting your time and ours but violating precepts of common decency in coming in "under false colors."

With this understanding we will be glad to show your representative, assuming that his objectives are the former, our entire operation.

Very truly yours,
/s/ William N. Coggins, D.C.
WILLIAM N. COGGINS, D.C.
Dean
WNC:hc

1954 (Sept): ***ICA International Review of Chiropractic*** [9(3)] includes:
-"AMA declared detriment by Yale Law Journal" (p. 15)

1954 (Oct): ***ICA International Review of Chiropractic*** [9(4)] includes:
-"AMA flyer on quacks" (p. 29):

The following quoted text was taken from an AMA pamphlet that was prepared by the American Medical Association for distribution and which is designed for mass distribution with a heading entitled "beware of the healer who guarantees a cure he may be a … 'quack'."

"Today there are thousands of quack healers promising quick cures for every disease known – and extorting millions of dollars annually from their gullible patients.

"Some of these cultists treat all diseases on the assumption that they are caused by just one thing and can be cured by a single method. This seems more like the superstitious Middle Ages than the scientific Twentieth Century.

"Among the cultist and out-and-out phonies are those who 'assist nature' by treating illness only with herbs or electricity; those who claim all illness results from strained ligaments; those quacks who advertise their individual nostrums and devices as cure-alls; and the most aggressive of the group – those who claim that only interference with the nerves induces disease.

"Manipulating the spinal column is considered by this latter cult to be the only cure for what ails you – including leprosy… tonsillitis… appendicitis… ringing of the ears… cerebral palsy… polio… and sleeplessness.

"The medical profession bases its experience on years of fine schooling, practical clinical experience in treating sick bodies, continued post-graduate training and never-ending research. Even with this background, physicians are cautious. They know that certain diseases can only be checked and not all diseases can be cured. In contrast, the quack usually guarantees a cure even if – as some health investigators have discovered – he treats you for an illness you don't have!

"Cultists are not permitted to train in medically registered hospitals. As a result, experience in diagnosing and treating disease is blatantly absent from their education. In many cases, any form of education is absent. Correspondence schools operated by quack-pots are always willing to enroll anyone who is willing to pay the fee and some cultist 'colleges' admit applicants without even a high school diploma.

"Often the cultist's personal experience with disease starts with the first gullible patient. Sometimes that patient does not live long enough to expose the ill treatment he has received. Many quacks use such fantastic devices as a steel helmet to prevent baldness, a 'magic spike' to cure tuberculosis, or a machine that's supposed to fertilize fields, fill teeth and regrow amputated fingers and toes (a three-in-one bargain!).

"Good health is your most precious asset. Protect it by consulting an M.D. – a competent medical man, trained to diagnose your illness and to prescribe the most effective and suitable treatments and remedies.

"Do not make the mistake of placing your health in the hands of an unscrupulous, unscientific and incompetent quack healer. He may cause you to take a fatal detour from the expert medical attention you need. His methods can hurt you – or even kill you." – ACP.

1954 (Nov): ***ICA International Review of Chiropractic*** [9(5)] includes:
-"Who are the quacks" (p. 15)

1955 (Sept): ***ICA International Review of Chiropractic*** [10(3)] includes:
-"What the press says: the persecution of Dr. Banker" (p. 9)
-"A law is needed" (p. 9)
-"Immediate action is planned after Louisiana arrests" (p. 16):

Lake Charles, La. (ACP) – At a meeting here recently the members of the Southwest District of the Louisiana Chiropractors Association voted to take positive and immediate action against the Louisiana Medical Association, after the medical men had instituted court action against 38 chiropractors in an attempt to bar them from practice.

Chiropractors from many parts of the state have been charged with "practicing medicine without a license." Some have been hailed into court, while others have been ordered to "cease and desist." Louisiana is one of four states which do not license chiropractors.

Of particular concern to the chiropractors is that most laymen take for granted that the arrested chiropractors was actually practicing medicine without a medical license, when in reality they were only giving spinal adjustments which is the practice of chiropractic.

1955 (Nov): ***ICA International Review of Chiropractic*** [10(5)] includes:
-"Maximum fine, jail for DR. E.J. Banker" (p.25):

Jennings, La. (ACP) – Dr. Edward J. Banker has been sentenced to 90 days in jail and fined $100 after being found guilty on charges of practicing medicine without a license. This is the maximum penalty for violation of the Medical Practice Act.

1956 (Feb): ***ICA International Review of Chiropractic*** [10(8)] includes:
-"D.C.'s blasted by masseurs" (p. 26)
-"Fees too low!" (p. 26):

Sunland, Calif. (ACP) – Dr. Sylvan Tatkin has filed a $2,500,000 suit against the Los Angeles County Medical Association charging "restraint of trade," after the Association had turned him down for membership and barred him from area hospitals.

The reason his membership was refused? The Association said his fee of $3 per office visit was too low.

1957 (Feb): ***ICA International Review*** [11(8)] includes:
-Hugh E. Chance, ICA General Counsel, authors "The law and the facts" (p. 8)
-"Judge for yourself" (p. 8), probably written by Hugh E. Chance:

Dr. M.R. was a member of the AMA, and was conducting a successful medical practice when there was organized in his city at the instigation of the AMA, a medical service corporation. This corporation proceeded to enter into contracts to supply pre-paid medical and hospital care. Dr. M.R. objected to the corporation and its method of operation, stating his reasons in a letter to the County Medical Society. Afterwards he was expelled from the County Society, the State Medical Association, and the AMA – all subsidiary organizations.

Dr. M.R. then brought suit against the AMA and its officers, charging that they were maintaining a monopoly; alleging it was necessary to belong to AMA in order to maintain a successful medical practice; that by reason of is expulsion he was unable to use hospital facilities; his practice was ruined; he was forced to move to another location, and that when his father learned of his expulsion he changed his will to Dr. M.R.'s disadvantage.

AMA argued that the Clayton and Sherman Anti-Trust acts did not apply to these facts because the actions complained of were purely local in character and did not involve interstate commerce. Furthermore, AMA said that Dr. M.R. was not engaged in the practice of contract medicine, and therefore he could not have been injured by the activities of the medical service corporation.

If you were the judge, would AMA be liable for damages to Dr. M.R.'s practice?

Answer: AMA won on both counts. The court said that the anti-trust laws apply only to restraint of trade passing in inter-state commerce, and that medical practice is purely local in character. (See Spears Free Clinic v. Cleere 197 Fed. 2d 125) However, the court held that if Dr. M.R. could prove that his expulsion from the medical societies was not in accord with the society rules, he could recover damages. Based on Robinson v. Lull 145 F. Supp. 134.

1957 (Oct): ***ICA International Review*** [12(4)] includes:

-"Two Illinois chiropractors face trial" (p. 17):

Davenport, Iowa (ACP) – Two Lincoln, Illinois, chiropractors, Dr. John Raffa and Dr. Frederick Loeffler will face a jury trial September 23 at Logan County Court on charges of violating the State Medical Practices Act.

They pleaded not guilty at earlier hearings. The charges were preferred at the request of the Illinois Department of Registration and Education.

Attorneys for the two chiropractors, Robert W. Carthy, Lincoln, supported a public statement by Raffa that the state charges are aimed at graduates of the Palmer School of Chiropractic, whose graduates are not permitted a license under the Medical Practice Act.

1957 (Nov): ***ICA International Review*** [12(5)] includes:

-"Court orders Wisconsin D.C. to cease use of modalities" (p. 24):

Dr. Robert Grayson has failed to block Wisconsin state action that would prevent him from using machines to treat patients.

The state attorney general Stewart Honeck, sought an injunction in circuit court at Kenosha to stop Grayson from using certain practices which, the state contends, exceed the limits of his chiropractor's license.

Honeck said the basic issue was whether Grayson could use "modalities" (machines) in the diagnosis and treatment of disease. The state contends that chiropractors are limited to hand adjustment of the spinal column.

After Honeck's request for an injunction, Grayson filed an objection to the state's action. Grayson objected on the grounds that the court lacked jurisdiction because the legislature had not specifically defined the limits of chiropractic practice in Wisconsin statutes.

The announcement that Grayson's objection had been over-ruled was made Thursday by Atty. Gen. Honeck.

Circuit Judge M. Eugene Baker, in his decision, cited previous court rulings that a chiropractor was not a physician. He also pointed out that a licensed physician was authorized to practice in any medical field, and that a chiropractor must therefore be confined to lesser activity.

1958 (Feb): ***ICA International Review of Chiropractic*** [12(8)] includes:

-"Chiropractor sues Ohio medical board" (p. 27):

Cincinnati, Ohio (ACP) – A Cincinnati chiropractor is suing an investigator of the Ohio State medical board for $107,500 on charges of false arrest.

Dr. Philip Brien charges that patients were discouraged from visiting his office because of adverse publicity resulting from Cecil D. Scott's accusations that he was practicing medicine and representing himself as an M.D.

Through his attorney, Dr. Brien said a reckless disregard of his rights was exhibited by Scott and that the investigator acted without probable cause in making the accusations.

Dr. Brien was convicted of Scott's charges by a Common Pleas Court Jury but the decision was reversed by Ohio's first District Court of Appeals.

1958 (May): ***ICA International Review of Chiropractic*** [12(11)] includes:

-"Press grants equal space for reply to medical attack" in NYS (pp. 15, 29)

1958 (June): ***ICA International Review of Chiropractic*** [12(12)] includes:

-"AMA spends $10 million a year boosting MD's, medicine" (p. 26)

1958 (Aug): ***ICA International Review of Chiropractic*** [13(2)] includes:

-"AMA claims advertising evil and issues 7,500 broadcasts" (p. 17)

-"Indianapolis M.D.'s told to advertise" (p. 17)

1963 (Nov/Dec): ***Digest of Chiropractic Economics*** [6(3)] includes:

-Gene Wiechec authors "American Chiropractic Association formally organized in October; ACA to be directed by an interim board of governors and executive action committee during formation period" (p. 4)

-"NCA replies to Saturday Evening Post article" (p. 40):

Webster City, Ia. (NCA-CAN) – The National Chiropractic Association sent a letter of official protest to the Saturday Evening Post on the article entitled "The Huckster of Pain" by Ralph Lee Smith in the August 24-31 issue.

Special objection was raised to the quotation from the Arthritis and Rheumatism Foundation which stated, "Spinal adjustments as such, not only are of no value in the treatment of arthritis of the spine but may in many cases, lead to severe damage." Statements such as these are a direct attack on the chiropractic principle itself.

The NCA legal department is presently investigating the possible legal implications of the article's contents.

-"ACA softens 'Life Quackery Article'" (p. 40):

Webster City, Ia. – Prior to the appearance of the article "Crackdown on Quackery" (Nov. 1) in Life magazine, the New ACA, through its legal department, contacted Life in order to prevent the publication of anything detrimental to the chiropractic profession.

Dr. Clyde Martyn, new ACA Interim President, issued an official policy statement to Life's regional correspondent in California, while the story was being prepared.

In addition to its coverage of Dr. Marvin Phillips, Life also reported on the activities of Dr. **Ruth Drown**, but did not identify her as a chiropractor. Although the article was slanted, no direct attacks were made on the profession, nor did it single out in a

derogatory manner chiropractic as a profession, or its techniques. The Life article would likely have been worse, had not the ACA intervened to prevent publication of an anti-chiropractic article in its early development.

1964 (Mar/Apr): ***Digest of Chiropractic Economics*** [6(5)] includes:
-Dewey Anderson, Ph.D., ACA Director of Education, notes that AMA Department of Investigation "Has a definite program to destroy chiropractic, root and branch, by 1970." (pp. 24-5)

1964 (Sept/Oct): ***Digest of Chiropractic Economics*** [7(2)] includes:
-"Optometrist sues A.M.A." (p. 36) under Sherman Antitrust Act for conspiring "to destroy the practice of optometry by causing to be published false and malicious statements concerning the licensed profession of optometry and that a boycott in fact was urged by the defendants, and as a result of such conspiracy and combination, the plaintiffs have sufered and will continue to suffer a monetary loss"

1966 (June 19-21): "Report of 33rd Annual Congress, Council of State Chiropractic Examining Boards, Biltmore Hotel, Los Angeles, California"; includes:
-"State Reports" (pp. 6-8); many states struggling to get NBCE recognized; includes:
SOUTH DAKOTA: Dr. Ortman – **Chiropractors in South Dakota are still entitled to and are using county hospital facilities**. They have five D.C.'s using the hospital facilities in the state and one who is actually on the hospital board. He does not know how long this situation will prevail, since with the advent of Medicare, these county hospitals, in order to participate, have to be approved by medical authorities, so the situation could change.
LOUISIANA: Dr. Paul Adams, A.C.A. State Delegate from Louisiana – Louisiana lost their legislative effort. Will file a motion for rehearing in the supreme court. The case will still be active and the demand of the court that the Medical Board refrain from prosecuting parties to the litigation as long as the case is in litigation will be in force.

1965 (July/Aug): ***Digest of Chiropractic Economics*** [8(1)] includes:
-"Medicare… **chiropractic included** through ACA amendment to bill" (p. 26)

1965: Congress established Medicare and Medicaid Programs, Titles XVIII and XIX. Chiropractic was not included (McAndrews, 2002/SAGA)

1966 (Feb 3): report on ACA stationery from Governor, District 4, Edwin H. **Kimmel**, D.C. (in my Kimmel/CINY files):
TO: DISTRICT FOUR STATE DELEGATES
RE: MID-YEAR BOARD MEETING…
Mr. Kohler was received. He discussed Medicare, NALC, Federal Employees Compensation Act and other legislation influencing chiropractic…
National Council of Senior Citizens in Washington interested in Chiropractic inclusion in Medicare.

1966 (Mar/Apr): ***Digest of Chiropractic Economics*** [8(5)] includes:
-"M.D..D.C. debate: 'Chiropractic is not on trial'" (p. 53):
As part of his closing statement, at a debate conducted between Dr. J. Joseph Allen, chiropractic author, lecturer and educator and Dr. Joseph A. Sabatier, President-elect of the Louisiana State Medical Society; Dr. Allen stated, "Chiropractic is not on trial and make no mistake about it."
The debate took place during a luncheon meeting conducted by the Young Men's Business Club of Baton Rouge, Louisiana, last month.
The medical representative attempted to discredit the entire chiropractic profession by using as ammunition, various text books and memoranda, some of which were more than fifty years out of date. Many of the medic's quotations were taken out of context.
Speaking about the lack of official recognition in Louisiana, Dr. Allen pointed out that it was too bad that the second largest healing profession had to appeal at this point for recognition. He continued, "It is contrary to all the rules of justice and fairness to allow a competitor (the medical profession) to pass on our ability."
"There is a law that supersedes man-made law and that is the moral law. People are going to chiropractors, millions of them and these millions are getting results."
Asked following the luncheon, just what he as a chiropractor can do for a patient, Dr. Allen replied: "The chiropractor claims to be an effective operator when mechanical displacements of the spine have a direct ancillary relationship to disease."

1966 (Nov): ***ACA Journal of Chiropractic*** [3(11)] includes:
-"ACA meets the challenge" (pp. 24-5); includes:
The AMA came to Chicago's Congress on Medical Quackery with one major purpose in mind: to derogate the chirpractic profession. They did not achieve their objective!…

c1966/1967: photograph of march from downtown Baton Rouge to capitol, 1966 or 1967; Joseph Sabatier, M.D. (3rd from left) shakes hands with Sid E. Williams, D.C.; others in photo are Drs. Tony Palombo, George Shaw, and ? Edwards (courtesy of Patricia Oliver):

1967 (May 22): ***JAMA*** includes article by John Wilson, Jr., M.D., chairman of AMA's Section on Orthopedic Surgery, authors "Low back pain and sciatica" (McAndrews, 2002/SAGA); includes:
When queried about the lower back a medical student soon to graduate from a far Western university revealed an enormous gap in his professional education. One instructor had given him a list of 125 causes of low back pain, from which the student had concluded that probably everyone with sciatica had a ruptured disc requiring surgery; another instructor had delivered a one-hour

lecture on anterior interbody fusion. This young man, well informed concerning the cause and treatment of cardiac arrhythmias, electrolyte imbalance, and alterations in the DNA chain, displayed a disturbing ignorance of the cause and treatment of low back and sciatic pain – one of mankind's most common afflictions.

The teaching in our medical schools of the etiology, natural history, and treatment of low back pain is inconsistent and less than minimal. The student may or may not have heard a lecture on the subject, he may have been instructed solely by a neurosurgeon, or the curriculum committee may have decided that clinical lectures are "out" and more basic sciences "in." The orthopedic surgeon, to his distress, often sees his hours in the curriculum pared to the barest minimum.

A survey of orthopedic residents graduating from an approved program in a large urban area disclosed several alarming deficiencies in their training. They know very little about the natural history of degenerative disc disease in the lower part of the spine. The importance of the physicians' personally taking an accurate, detailed patient history had escaped them. They were too unsure of the technique of careful lumbar spine examination to include a search for early states of neurologic defect. They had too often been satisfied with interpretations of technically inferior roentgenograms, and their insufficient knowledge of diagnostic aids seldom permitted them to select the one most helpful in accurately establishing the level of a lesion. They knew least when to use a particular surgical procedure.

At the postgraduate level, symposia and courses concerning the cause and treatment of low back and sciatic pain are often ineffective because of prejudices and controversy.

These inconsistencies spawn disastrous sequelae:

1. patients operated upon after inadequate evaluations;
2. reliance by physicians on poor quality X-ray films;
3. surgery done only because of an abnormality in a myelogram without reference to plain films of the lower spine;
4. exploratory surgery upon the lower back done without sufficient clinical basis;
5. extensive surgery done for solely subjective complaints;
6. repeated attempts at spinal fusion – sometimes six or eight – by surgeons of limited experience.
7. surgery authorized by industrial accident commissions comprised exclusively of laymen; and
8. Extensive removal of posterior vertebral elements by neurosurgeons, making stabilization of the lower portion of the spine technically difficult if not impossible.

1967: Public Law 90-248; Congress asked the Department of Health, Education and Welfare ("HEW") to conduct an "unbiased study" of the possibility of including chiropractic in Medicare (McAndrews, 2002/SAGA)

1968 (Feb 20): Letter from Doyle Taylor (Director of AMA) to Dr. Sam Shermn, providing information from the AMA regarding chiropractic for use at the Health Insurance Benefits Advisory Council ("HIBAC") meeting – "**The AMA hand must now show in this matter**" (McAndrews, 2002/SAGA)

1968 (Mar 11): Letter to Doyle Taylor – AMA; HIBAC Meeting, Baltimore, Maryland – Discussed the HEW study – "**There was complete acceptance of the concept of preparing the decision on the basis of lack of scientific merit**" [Fully five months before the mandated study began.] (McAndrews, 2002/SAGA)

1968 (Mar/Apr): ***Digest of Chiropractic Economics*** [10(5)] includes:

-"ACA mid-winter conference reports progress at Las Vegas meeting" (p. 6); includes:

…Dr. Jerry Brassard, Beaumont, Texas, chairman of the SCOPE committee, and Harry Rosenfield, ACA Washington counsel, gave an in-depth report on the massive effort of the ACA before Congress in the **Medicare** effort of 1967. Free distribution of over one million "Freedom of Choice" brochures and countless contacts with congressmen and senators by the ACA and its members and friends contributed to the favorable image of chiropractic on the Washington scene…

1968 (July/Aug): ***Digest of Chiropractic Economics*** [11(1)] includes:

-"Louisiana licensing bill killed - again" (p. 40):

A chiropractic licensing bill has been killed by the Louisiana House of Representatives, but the chiropractic forces are seeking a November referendum which would place the issue before the state's voters.

A Louisiana House committee voted 9 to 7 against sending the license measure to the floor, and on reconsideration voted 10 to 6 to submit an unfavorable report.

The bill was killed by a 66 to 23 vote in the House. In 1966 the U.S. Supreme Court upheld an earlier ruling that the state has the right to refuse to license chiropractors unless they have a medical education according to a report appearing in the A.M.A. News.

J.A. Sabatier, Jr., M.D., New Orleans, chairman of the AMA Committee on Quackery and former Louisiana State Medical Society president, headed the fight against the bill offered by Rep. William Boyd, Lake Charles chiropractor.

Dr. Sabatier called for "one standard in the healing arts," charging that this bill "would in effect permit practice of medicine by individuals who have not demonstrated they have training in the treatment of human disease."

During the last legislative session, a resolution was adopted establishing a chiropractic study commission by both House and Senate members. The committee report said an attempt to work out a compromise between physicians and chiropractors was unsuccessful, and the commission made no recommendation.

1968 (Aug 16): First meeting of the ad hoc committee review panel; letter from Dr. Williston to Dr. Marr, thanking him for greeing to meet with Donald Duncan (chairman of the ad hoc committee performing the "unbiased" study) and providing him with the AMA's materials on chiropractic (McAndrews, 2002/SAGA)

1968 (Aug 23): Letter from Dr. William Marr to Dr. Williston – Dr. Donal Duncan "is most anxious to do everything he can and is **completely sold on the idea that chiropractic benefits should not come under the Medicare program**" (McAndrews, 2002/SAGA)

1968 (Aug 29): Letter from William Massie to Doyle Taylor [AMA] – "I am working through my partner who is working through some of his New York friends who will **attempt to decide who would be the best orthopedic surgeon to coach Dr. Milbourne**" (adhoc expert committee member) (McAndrews, 2002/SAGA)

1968 (Sept 19): Memo from Doyle Taylor to Bernard Hirsh (Director, Law Division) – "Dr. Blasingame volunteered that

he, personally, would go to Galveston, Texas, to visit with his friend, Dr. Duncan… I believe it to be of major importance that some kind of follow-through be made on contacting Dr. Duncan… Blasingame [will] make a date for Joseph A. Sabatier, Jr… to meet with Dr. Duncan… [he] asks that I accompany him" (McAndrews, 2002/SAGA)

1968 (Oct 17): Second meeting of the Ad Hoc Committee review panel (McAndrews, 2002/SAGA)

1968 (Oct 25): Letter to Donald Duncan from the AMA enclosing materials from the AMA on chiropractic (McAndrews, 2002/SAGA)

1968 (Oct 28): Dr. Mennell (Ad Hoc Committee member) submits his report indicating that he was "**disturbed over the last four weeks to receive telephone calls… inspired by the AMA, implicitly suggesting what the tenor of [his] report should be**" (McAndrews, 2002/SAGA)

1968 (Nov 5): Letter from Dr. Duncan to Monaghan (AMA staff associate) thanking him for the materials: "It is bad enough but a mere drop in the bucket compaed to the day to day milking of the public that goes onin chiropractor's offices" (McAndrews, 2002/SAGA)

1968 (Nov 7): Letter from Duncan to Dr. John Southard, Medical Officer, Policy and Standards Branch, HEW – two weeks prior to the submission of the report: "The second [item] concerns my horror that in a supposedly civilized nation a hoax known as chiropractic enjoys legal sanction in **all but one** state in the union" (McAndrews, 2002/SAGA)

1968 (Nov 22): The Ad Hoc Committee submits its report to HEW, primarily written by Duncan (McAndrews, 2002/SAGA); includes:

> How can any movement manually delivered… affect realignment of that vertebra?…
>
> [A] push on the vertebra could permanently change the configuration of the joint by overcoming its structural strength or it could push a loose object into or out of the path of movement of the joint…
>
> If this is so, it would certainly seem to be a rather risky procedure considering the vital structure that goes through this bone and the brittleness of an elderly person's vertebra…

1968: Ad Hoc Report defined "subluxations" as "**misaligned vertebrae that cause nerve interference**" (McAndrews, 2002/SAGA)

1968 (Dec 28): HEW submitted its report to Congress, denouncing the validity of chiropractic. Chiorpractic was not added to Medicare for the precise reasons decided five months before the study even began, as set out in the March 11, 1968 letter (McAndrews, 2002/SAGA)

1969 (Feb): ***ACA Journal of Chiropractic*** [6(2)] includes:
-attorney Harry N. Rosenfield, ACA counsel, authors "HEW's report on chiropractic" (pp. 10-2); includes **photo** of Mr. Rosenfield

1969 (May): ACA submits the "White Paper" exposing the AMA's covert involvement in the 1968 ad hoc expert panel report to HEW; Congress demands an explanation from HEW (McAndrews, 2002/SAGA)

1969 (May/June): ***DCE*** [11(6)] includes:
-ACA, ICA and Council of State Chiropractic Examining Boards issue "Chiropractic's 'White Paper' on Health Education and Welfare Secretary's Report 'Independent Practitioners Under Medicare'" (insert)

1969 (July): HHS (Dr. Cashman) **lies to Congress** about AMA involvement in the study as charged by chiropractic organizations (McAndrews, 2002/SAGA):

> The Ad Hoc Group itself recognized and discussed two possible sources of bias. The first was from attempts by organized groups or individuals with special interests to influence the study. The Group decided that it would not hear or consider material from any group other than those being studied, and that no outside observers would be allowed lest they influence or inhibit the discussions. Thus, when the American Medical Association contacted the former Secretary of HEW and asked to meet with the Ad Hoc Consultant Group, the Group unanimously agreed that such a meeting would be inappropriate.

1969 (Sept/Oct): ***Digest of Chiropractic Economics*** [12(2)] includes:
-full page ad for Clinic Masters of Colorado Springs CO features multiple testimonials declaring "CM doubled my income" (p. 37)
-J. Joseph Allen, D.C. of Hagerstown MD, asst. to CIC president, authors "Some good/some bad" (pp. 38-9) authors response to Ralph Lee Smith's book, ***At Your Own Risk***; includes:

> …Let me place the magnitude of the issue squarely in focus. I have been informed by totally reliable individuals, which I am certain the publishing house will confirm, that **125,000 copies of the paper back edition have been ordered by an obvious source**. The break-even point in an instance like this is 25,000 copies sold. By that I mean that when this figure is sold the company has to break even on the publication. Now the paperback edition is to be issued at the same time as the hardcover edition; evidence that either the publishers have written off any profit on the hardcover edition or that it is being subsidized by advance bulk orders from the aforementioned obvious quarters. This means that distribution for at least 100,000 books will be channeled for maximum effect to that segment of the population which one might call – the opinion formers. The impact will be considerable.
>
> I must point out that I am not one who holds that all who criticize this profession are evilly motivated or biased. Mr. Smith has written much that should have been written by the national associations within the profession. He has denounced much that should have been denounced a long time ago by these same associations. His work is brutal, but not impregnable. Already a brilliant writer in another field, a valued friend, has started a critical analysis which will help put the whole matter in proper perspective. Naturally I shall have much to say in future articles.
>
> Mr. Smith has written a book that should be quite helpful in many ways. It brings into sharp focus much that has been foolishly tolerated with a benign attitude in the past, when it should have been vigorously condemned. Now the profession faces an agonizing decision – it must reject the unethical and unscientific or it must forfeit its demand for equal status within the scientific community. This will surely involve a strong reorientation toward those professional values that most practitioners in this discipline have strongly desired and which

others, like this writer, have insisted are imperative. The future direction of the profession must be clearly stated; firm stands must be taken. What is true must be conceded; what is wrong must be corrected. False and improper analogies must be exposed. The good must be dramatically presented just as has been the case in metamorphosis of the medical profession from its early nadir to its present zenith.

Mr. Smith does not do justice to those within the profession who have urged reform before he so dramatically unilaterally presented the negative facts. As recently as June of this year at the convention in Cincinnati I stated flatly to one of the authors of the book on infection, that it was trash, too ridiculous for serious consideration by anyone born above the condition of an idiot. And obviously, references to therapeutic absurdities such as skull molding for the treatment of cerebral palsy cause one to wince in shame when they are held out to be valid forms of treatment by a large chiropractic institution. Chiropractic theory is not structured even remotely on such incredibly stupid concepts. If it were, it would rightly stand condemnation.

Mr. Smith has seen, so it would seem, only one side of the coin…

1969 (Dec): ***Chirogram*** [36(12)] includes:
-"Medicine's plan for chiropractic and osteopathy" (pp. 326-30)

1970 (Jan/Feb): ***Digest of Chiropractic Economics*** [12(4)] includes:
-Dr. J.R. Kuhn of Ruidoso NM authors "The official position: Medicine vs. chiropractic with comments regarding our future" (pp. 16-7, 19); includes biographical sketch:

THE AUTHOR

Dr. Kuhn was born in Bloomington, Illinois and graduated from the Clinton, Illinois high school in 1942. He served three years in the World War II Air Force, received his Bachelor of Science degree at the University of Illinois in 1947, as well as a Bachelor of Science in medicine at the University of Illinois College of Medicine in 1949. He graduated from Missouri Chiropractic College in 1952. Dr. Kuhn is also licensed in the States of Missouri, Texas and New Mexico.

-J. Curtis Schilstra, D.C. of Anaheim CA authors "Chiropractic – an analysis" (pp. 30-1, 60-1); includes:

This paper is not intended to be a defense of chiropractic against the attacks of organized medicine, nor a defense of medicine against the attacks of organized chiropractic. Neither is it to be construed as an attempt by one member of the chiropractic profession to placate the leaders of organized medicine into accepting chiropractic. This paper is rather a contribution toward the goal of improving chiropractic through an impartial recognition of its faults…

1971 (Mar): Roland A. Martin, M.D., medical director of the Oregon Workmen's Compensation Board, published a study based on a retrospective study of comparable workmen's industrial injuries, and independently concluded a two-to-one advantage of chiropractic care (McAndrews, 2002/SAGA); includes:

Examining the forms of conservative therapy the majority received, it is interesting to note the results of those treated by chiropractic physicians.

A total of 29 claimants were treated by no other physician than a chiropractor. Of these workers, 82 percent resumed work after one week of time loss. Their claims were closed without a disability award.

Examining the claims treated by the M.D., in which the diagnosis seems comparable to the type of injury suffered by the workmen treated by the chiropractor, 41 percent of these workmen resumed work after one week of time loss. (A study of time loss back claims, Workmen's Compensation Board, state of Oregon, March 1971.)

1971 (Nov/Dec): ***Digest of Chiropractic Economics*** [14(3)] includes:
-Ralph Pressman, Ph.D., faculty member at LACC, authors "An open letter to the A.M.A." (p. 4):

The Editor
Journal of the American Medical Association
535 North Dearborn Street
Chicago, Illinois 60610
Dear Sir:

Within the past few months a number of books and articles have come my way in which the medical profession has been accused of many crimes of omission (commission, and in some cases down right dishonesty).

I have reference to the book "A Doctor Dares to Tell," and "It is Cheaper to Die," and more recently "The Doctors," Martin L. Gross; "The Healer," Anonymous; "The Medical Research Game," Richard P. Heumer, M.D. in National Health Federation Bulletin; "The Quality of Mercy" by Selig Greenberg (that pertains to the prescription drug scandal), among others.

It was therefore a surprise when one of my former colleagues, an M.D., sent me a photostat of an article by Richard S. Wilbur, M.D., which appeared in JAMA February 22, 1971.

Dr. Wilbur, who is Deputy Vice-President of AMA, seems to be perturbed with the progress that the chiropractic profession (cult, according to Dr. Wilbur) is making.

In the light of the number of criticisms being leveled at "organized" medicine, one might inquire why a man of the stature of Dr. Wilbur will take time to be concerned with the flea on an elephant's back when there is so much housecleaning to be done in his own organization.

In the July, 1971 issue of Medical Economics is an article that may not be reproduced, quoted, paraphrased in whole or in part. It dares to take a view diametrically opposed to that of Dr. Wilbur.

It happens that this small group of healers, the chiropractors, has helped thousands who were not helped by medicine and my name could be added to these thousands.

I can think of no better way of ending this letter than recalling a very pertinent question in Matthew 7:3:

"Why beholdest thou the mote that is in thy brother's eye, but considerest not the beam that is in thine own eye?"

Sincerely yours,
s/Ralph Pressman, Ph.D.

1972: William Trever (penname for Sore Throat?) authors ***In the Public Interest***; cover photograph:

1972: Study by C. Richard Wolf, M.D. (Published in1975) of 629 workmen's compensation cases in California. It showed that doctors of chiropractic were twice as effective as medical physicians, for comparable injuries, in returning injured workers to work at every level of injury severity (McAndrews, 2002/SAGA); includes:

Average lost time per employee – 32 days in the M.D.-treated group, 15.6 days in the chiropractic-treated group.

Employees reporting lost time in excess of 60 days – 13.2 percent in the M.D.-treated group, 6.7 percent in the chiropractor-treated group. (Industrial Back Injury, by Richard Wolf, M.D.)

1972 (Oct): The amendments to the Social Security Act are passed, including the addition of chiropractic services, due in large part to a **reported three million letters** to Congress from patients of chiropractors providing testimonials as to the benefits that they received from chiropractic care (McAndrews, 2002/SAGA)

1973 (Jan/Feb): ***Digest of Chiropractic Economics*** [15(4)] includes:

-A. Earl Homewood, D.C., N.D., asst. administrative dean of the LACC, authors "77 years of turning the other cheek" (pp. 26, 28-9)

1973 (Mar): ***ACA Journal of Chiropractic*** [10(3)] includes:

-letter to the editor from C.A. Hoffman, M.D., president of AMA (pp. 48-9)

1973 (June 4): letter on Palmer College stationery from H. Ronald Frogley, D.C., Ph.C., EVP of Palmer (CCE Archives; in my Wilk file):

Dr. A.D. Bogden, D.C.
4123 E. Glenn
Tucson, Arizona 85716

Dear Tony:

Thank you for the comments you made in your June 1st letter regarding accreditation and IN THE PUBLIC INTEREST. Accreditation has traveled the road as predicted – I understand both accrediting agencies have been turned down.

There are two possible aspects for this decision by the U.S. Office of Education:

1) Their pre-stated policy to recognize only one accrediting agency for a particular specialty, which would mean we have to get together and form one accrediting agency from ACC and CCE.
2) The pressure applied by the A.M.A., particularly before, during, and after the hearing given by H.E.W. to both accrediting agencies.

To me, it appears the only course which will get accreditation is to get the ACA out of the accrediting business, free their schools from the financial yolk they keep on their necks, and allow the two existing accrediting agencies, or all the schools, to set up an accrediting system which would be representative of this profession. I am sure most everyone will now agree there is no possibility either agency will be recognized.

I do not believe we can make full use of our professional weight while we are split on any of the matters which have been giving the profession difficulty throughout its entire existence.

If the profession were unified, it would be easy to make use of the material in the book, IN THE PUBLIC INTEREST, because we would have a proper Public Relations' Department to follow it through. It is an impossibility for one college, or one program, to do justice to a program which needs all of our combined efforts. If we were united, we could tell them to go to ___ and keep on doing our own thing. Divided, we are very vulnerable to a flank attack by anyone who decides to take a shot at us.

I think we all have to be more diligent in pulling this together rather than continuing the separation which divides us. I really appreciated your comments, Tony.

Kind personal regards,…

HRF:mes

cc: Dr. Ernest Napolitano

1973 (July): Amendments become effective (McAndrews, 2002/SAGA)

1973 (July/Aug): ***Digest of Chiropractic Economics*** [16(1)] includes:

-"Flash" (p. 11):

On June 26th, 1973 it was announced that Governor Rockefeller signed into law a provision which will include chiropractic services in the New York State Workmen's Compensation statute. The effective date for such inclusion is June, 1974.

-J.F. Vannerson, D.C. of Purcell OK authors "An exclusive expose of the A.M.A." (pp. 12, 14-5, 17); discusses William Trever's ***In the Public Interest***

-Martin R. Stone, D.C. authors "'Chiropractic speaks out'; review of a book by Chester A. Wilk, D.C." (p. 24)

1973 (Aug 25): AMA and HEW officials meet to erect road blocks, via setting forth agency regulations to inhibit the utilization of the chiropractic service, such as higher education standards and the x-ray requirement. (Remarks of Dr. Sheridan Weinstein). Also, the transcript indicates that HEW has decided not to reimburse beneficiaries for the required x-ray to demonstrate a subluxation even though Dr. Weinstein states that a liberal interpretation of the statute would allow such reimbursement (McAndrews, 2002/SAGA); includes:

The first thing we had to do was we had to come up with a decision as to whether or not we were going to pay for the x-rays… If we wanted to take a more liberal interpretation of the law, one could probably argue very cogently that if the chiropractor was legally bound by virtue of the law to demonstrate that the patient has a subluxation, those means that he would be required to use to so demonstrate are also incident to service.

1973 (Nov 13): ***JAMA*** [226(???)] includes (McAndrews, 2002/SAGA):

-(p. 829):

…Hospitals not only have a right, but a duty to refuse to grant staff privileges… Cultists practitioners, such as chiropractors, are medically unqualified and incompetent practitioners…

1973 (Nov/Dec): ***Digest of Chiropractic Economics*** [16(3)] includes:

-Gustave Dubbs, D.C., National Director of U.S. Chiropractic CHP Office, authors "Louisiana: the last bastion of political medicine" (pp. 74-7)

1973 (Dec): ***Western Journal of Medicine*** [119(6): 44-5] issues statement of the California Medical Association:

Chiropractic

CHIROPRACTORS DISAGREE among themselves on the definition of chiropractic. One group, known as the "straights," adheres basically to a rigid definition, holding that the sole route to restoration of health, no matter what the problem, is through manual manipulation of the spine. A second group, known as the "mixers," advocates the use of such modalities as heat, light, water, electricity, vitamins, colonic irrigation and other physical and mechanical adjuncts, in addition to spinal adjustments. Each group is represented by a national organization.

The chiropractic concept of disease is unsupported by scientific facts, and causes of infections and other diseases cannot be explained by the chiropractic theory of that disease is caused by a "subluxation" (partial dislocation) in the spinal column. Many chiropractors claim to be able to cure everything from headache to cancer by spinal manipulation - although medical research has proved their claims impossible.

In regard to education, a study by the Department of Health, Education and Welfare notes "irrespective of its theory, the scope and quality of chiropractic education do not prepare the practitioner to make an adequate diagnosis and provide appropriate treatment." Furthermore, no chiropractic school is accredited by any nationally recognized educational accrediting agency in the United States and chiropractic education is provided for the most part by chiropractors without a degree from an accredited college.

Forty-eight states impose license limitations on chiropractic, prohibiting chiropractors from prescribing drugs and performing surgery. Two other states - Louisiana and Mississippi - do not issue even limited licenses.

The scientific community - including the medical profession - regards chiropractic as an unscientific cult, the largest group of unscientific practitioners in the United States.

CMA's Position

CMA has emphasized repeatedly that chiropractic is an unscientific cult and that its practitioners lack the training and background to diagnose and treat human disease. Chiropractic is not a practice of medicine and constitutes a hazard to health in the United States because of the substandard and unscientific education of its pracititoners and their rigid adherence to an irrational, unscientific approach to disease causation. A patient who relies on chiropractic may delay proper medical care until serious and irreversible damage occurs. CMA pursues public recognition of this principle through public education campaigns and works to discourage chiropractic and other cultism in all ways.

The California Medical Association strongly disapproves of the payment of Medi-Cal, Medicare, Workmen's Compensation, Veterans Administration and other funds to chiropractors. In addition, CMA has worked against inclusion of chiropractors in any insurance contracts.

1975 (Jan/Feb): ***Digest of Chiropractic Economics*** [17(4)] includes:

-"Peer review may violate antitrust laws: excerpts from a speech by William B. Saxbe, Att. Gen." (p. 9)

1975 (May): ***ICA International Review of Chiropractic*** [29(4)] includes:

-Chester A. Wilk, D.C., secretary of the National Chiropractic Antitrust Committee (NCAC), authors "Antitrust action against AMA" (pp. 10, 21)

1975 (May 9-11): "Proceedings of the 42nd Annual Congress" of FCLB, Washington, D.C. (FCLB Archives)

-"The Official Report on the Council on Chiropractic Education" (pp. 12-14); includes:

The President called on Dr. Orville [sic] Hidde a member of the Accrediting Commission to give the Official C.C.E. Report. (see Exhibit #4) (Page 28)

Dr. Hidde then read a letter from Casper Weinberger, Secretary of Health Education and Welfare which was addressed to the chairman of Medical Education of the American Medical Association. This letter was in response to an appeal from the American Medical Association directly to Casper Weinberger going over the head of the United States Office of Education and requesting Mr. Weinberger to nullify the recognition of C.C.E. as an Official Accrediting Agency for the Chiropractic profession. That letter follows:

March 27, 1975
C.H. William Ruhe, M.D.
Secretary, Coordinating Council on Medical Education
535 N. Dearborn Street
Chicago, Illinois 60610
Dear Dr. Ruhe:

This is in response to your letter of November 14, 1974 requesting that I review the August 26, 1974 decision by the Commissioner of Education recognizing, for a period of one year, the Accrediting Commission of the Council on Chiropractic Education as an accrediting agency. Please accept my apology for the delay in responding.

As you know, Section 1201 (A) of the Higher Education Act of 1965 (20 U.S.C. 1141 (a)) provides that the Commissioner (of Education) shall publish a list of nationally recognized accrediting agencies or associations which he determines to be a reliable authority as to the quality of training offered. It was pursuant to this authority that the Commissioner made his August 1974 decision.

This decision of the Commissioner to list the Accrediting Commission of the Council on Chiropractic Education was made only after careful deliberation of all arguments both for and against recognition. The record reveals that prior to the Commissioner's decision, representatives of the American Medical Association reviewed the petition submitted by the Council on Chiropractic Education, submitted written material in refutation of the petition and appeared at the March 1973 meeting of the Commissioner's Advisory Committee on Accreditation and Institutional Eligibility to challenge the petition. The petition was subsequently denied and an appeal by the Council on Chiropractic Education to Commissioner was denied in October 1973.

The petition was later reactivated by the Council and supplementary data were filed. Representatives of the American Medical Association appeared again at the May 1974 hearing before the Advisory Committee on Accreditation and Institutional Eligibility and protested the reactivated petition.

The American Medical Association also met privately with the Commissioner prior to his final decision to recognize the Accrediting Commission of the Council on Chiropractic Education.

I recognize the seriousness which you attach to this matter and the earnestness with which you have pressed your views. The authority for recognizing accrediting agencies rests by statute in the Commissioner of Education, and I believe the process by which the Commissioner reached his decision was fair to the parties concerned. I also note that the Accrediting Commission of the Council will be reviewed for renewal of recognized status in September 1975, and that the American Medical Association will have an opportunity to make presentations regarding that matter.

After considering the viewpoints set forth in your letter of November 14, I have concluded that further action on my part regarding the Commissioner's decision is not warranted at this time…

Dr. Hidde then submitted to questions from the floor… Dr. Hidde then stressed the importance of the various state boards recognizing the C.C.E. Standards either by Statute or by administrative rule, it would be helpful if by the latter part of the summer, probably August, they would send a letter of intent to C.C.E. stating that they have adopted a resolution and are preparing to accept the C.C.E. Standards. This would be most helpful to the C.C.E. when they go in for review of their H.E.W. approval in September.

Current Status of Colleges Related to CCE

Los Angeles College of Chiropractic	Accredited
National College of Chiropractic	Accredited
Northwestern College of Chiropractic	Accredited
Texas Chiropractic College	Accredited
Western States College of Chiropractic	Recognized Candidate for Accreditation
Canadian Memorial Chiropractic College	Affiliate
Anglo-European College of Chiropractic	Affiliate
Palmer College of Chiropractic	Has applied for RCA Status
Columbia Institute of Chiropractic	Has applied for RCA Status
Sherman College of Chiropractic	Has applied for Correspondent Status
Logan College of Chiropractic	Letter of Intent
Life College of Chiropractic	Letter of Intent
Cleveland College of Chiropractic of Kansas City	Letter of Intent
Cleveland College of Chiropractic of Los Angeles	Letter of Intent

1975 (May/June): ***Digest of Chiropractic Economics*** [17(6)] includes:
-"National Antitrust Committee" (p. "Supplement B")

1975 (July/Aug): ***Digest of Chiropractic Economics*** [18(1)] includes:
-Chester A. Wilk, D.C. authors "This I believe" (pp. 22-4); includes photograph of Dr. Wilk:

-Attorney Roger W. Calton authors "Supreme Court dcision opens up possible lawsuits against peer review committees" (p. 42)

1975 (Nov 13): Letter to the American College of Radiology ("ACR") includes (McAndrews, 2002/SAGA):
…[ACR] has regarded chiropractors as cultists and has advised its members not to have any professional relations with them; since chiropractors are legally within their rights to ask for x-rays we are in an untenable position if we keep refusing to deal with them…

1975 (Nov 19): ACR response letter (McAndrews, 2002/SAGA) includes:
…The AMA has stated "all voluntary associations with cultists are unethical."… This, then would likewise be the view point of the ACR…The radiologist is within his rights in declining to make such films and interpret them.

1975 (Nov/Dec): ***Digest of Chiropractic Economics*** [18(3)] includes:
-"ICA update on AMA antitrust violations" (pp. 6-7)

1976 (Mar/Apr): ***Digest of Chiropractic Economics*** [18(5)] includes:
-"Tri-state Chiropractic Assn. supports anti-trust suit" (p. 7)
-"2,500 hear 'Sore Throat' at Las Vegas Parker Seminar" (pp. 80-1)

1976 (Sept/Oct): ***Digest of Chiropractic Economics*** [19(2)] includes:
-"Chiropractic editors guild meets in Chicago" (p. 26); includes:

A group of dedicated editors of chiropractic publications from throughout the United States met during their semi-annual symposium at the Holiday O'Hare-Kennedy Hotel in Chicago on July 31st and August 1st. Present were: Mr. John Quillin, Lombard, Il; Dr. William Rehm, Baltimore, MD; Dr. RB. Mawhiney, New Berlin, WI; Mrs. Fern Dzaman, Denver, CO; Dr. Devere Biser, Dallas, TX; Mr. Tom Kepler, Harrisburg,, PA; Mrs. Tracy Mullen, Des Moines, IA; Dr. George Flowers, Cincinnati, OH; Miss Nancy Feeney, Davenport, IA; Dr. Dale Huntington, Springdale, AR.

Also in attendance as honored guests were: Dr. Joseph Mazzarelli, Pensauken, N.J.; Dr. Roy W. Hildebrandt, Lombard, IL; Dr. Jerry McAndrews, Davenport, IA; Dr. Harry Jensen, Sterling, IL.

Guest speakers included Dr. Joseph Janse, President of the National College of Chiropractic, who presented his thoughts as a chiropractic educator with regard to upgrading the content of state publications.

Dr. Chester Wilk of Chicago, who is heading the Anti-Trust suit against the American Medical Association, explained in detail plans for future action and the many benefits which will inure to the profession when this activity was brought to a successful conclusion.

W.L. Luckey and George Davidson conducted a symposium and workshop on Saturday afternoon with primary attention to the mechanics of preparing ad publishing individual journals.

A highlight of the meeting was a talk on Sunday morning by Mr. Russell Gibbons, editor of "Steel Labor." Mr. Gibbons brought to the attention of the members the necessity of professional editing and selection of content to meet the two requirements of a state publication, specifically reader interest that relates to the local Doctor of Chiropractic together with detailed attention tot he research and educational progress of the profession.

Mr. Gibbons has accomplished a great deal of individual research on the history of chiropractic and he pointed out the need for State Editors to join with other leaders in the profession to record the history of those individuals who have been in practice for a period of over 40 to 50 years. He recommended that serious attempts be made to conduct taped interviews with individuals to determine their experience and background for compilation at a later date into a true living history of Chiropractic since its development.

An additional recommendation was that some central depository of this type of record be established and maintained.

Special recognition was given to Dr. Robert Mawhiney of New Berlin, Wisconsin, who is continuing to act as chairman of the group.

Dr. George Flowers who has been editor of the Ohio Journal for more than 18 years lent his background and experience in a number of areas including the financial and productions problems encountered by state or area publications.

Tentative plans were made at the conclusion of the meeting to establish a date during the month of January, 1977 for the next meeting to be held in Pennsylvania, probably in Harrisburg.

-"ICA celebrates its 50th anniversary at convention" (p. 42); includes three photographs:

National Chiropractic Antitrust Committee. Pictured are: top row from left, Trustees Allen Unruh, D.C., Elkton, S.D.; and Michael Pedigo, D.C., San Lorenzo, Calif. Bottom row from left: Chester Wilk, D.C., Chicago, Secretary; Clair O'Dell, D.C., Southgate, Mich., Chairman and Collin Haynie, D.C., Greensboro, N.C., Treasurer

1976 (Oct 12): Chester Wilk et al. filed their complaint against the AMA, AHA, ACR et al. for violations of the U.S. antitrust laws (McAndrews, 2002/SAGA)

1976 (Nov/Dec): ***Digest of Chiropractic Economics*** [19(3)] includes:

-"AMA antitrust suit filed by chiropractors" (pp. 44-6)

-"AMA hands out $1 million" (p. 103); notes political contributions

1977 (Jan/Feb): ***Digest of Chiropractic Economics*** [19(4)] includes:

-"Nursing home battle adds another notch to its belt" (p. 6):

After the recent Attorney General's opinion by Bronson La Follette which ruled that the Department of Health and Social Services was wrong in requiring a physician's permission for a nursing home patient to receive services of a chiropractor, the Wisconsin Department of Health and Social Services, as a result of that opinion, appealed the decision to the Department of Health , Education and Welfare on the grounds that they would lose Federal reimbursement for Medicare-Medicaid patients in nursing homes.

Lloyd Riddle, of the Division of Health Facilities and Services, informed Dr. R.B. Mawhiney that he has received word from HEW that they agreed with Attorney General La Follette's opinion and as a result the Department was notifying the nursing home industry that prior physician's approval for treatment of a chiropractic patient in a nursing home in Wisconsin is not required. As a result of this decision, the WCA Nursing Home Committee will begin a series of meetings to establish a set plan or pattern which D.C.s can follow as they begin practicing in nursing homes.

1977 (May/June): ***Digest of Chiropractic Economics*** [19(6)] includes:

-"Suit names ACA, others" (p. 6):

A group of Virginia and West Virginia chiropractors have filed a multimillion dollar suit against the American Chiropractic Association and the Virginia Chiropractors Association alleging that adopted peer review standards violate the Sherman and Clayton antitrust acts by combining to "fix prices and restrain fair trade." Also named in the suit are several insurance companies and individuals.

The action was filed on April 4, 1977, in the U.S. Court for the Western District of Virginia.

1977 (July/Aug): ***Digest of Chiropractic Economics*** [20(1)] includes:

-"An update on the antitrust lawsuit; reprinted from an I.C.A. release" (p. 54)

1977 (Oct): ***ACA Journal*** [14(10)] includes:

-"News comments: ABA takes immediate action on new advertising rules" (p. 8):

The Code of Professional Responsibility of the American Bar Association has been amended to permit lawyer advertising in the print media and on radio. Because of the recent US Supreme Court decision banning restraints on lawyer ads, the ABA's House of Delegates voted to permit the advertising of factual information, including fees for routine legal services. Television advertising was also rejected because of the greater danger of misuse. Radio advertising was allowed because blind and illiterate people who rely on the electronic media for information would otherwise be at a disadvantage.

1977: Health Care Financing Administration (HCFA) was established under the Department of Health & Human

Services (HHS; formerly HEW) to administer the Medicare and Medicaid programs (McAndrews, 2002/SAGA)

1978 (Mar/Apr): ***Digest of Chiropractic Economics*** [20(5)] includes:
-Chester A. Wilk, D.C. of Chicago authors "An appeal to conscience" (pp. 115-6)

1978 (May/June): ***Digest of Chiropractic Economics*** [20(6)] includes:
-"Interim report to Congress – study relating to chiropractic health professions… prepared by Bureau of Health Manpower, Health Resources Administration, Public Health Service, Department of Health, Education and Welfare, February 9, 1978" (pp. 33-4)

1978 (July/Aug): ***Digest of Chiropractic Economics*** [21(1)] includes:
-Marcus Diskin authors "I was there. And I marched!" (pp. 35, 106); includes **photo** of Mr. Diskin and:

Along with about 3,000 other people, I walked to the Department of Health, Education and Welfare (HEW) in Washington for patients' rights.

It was Monday, July 3, 1978…

1978 (Aug): ***ACA Journal of Chiropractic*** [15(8)] includes:
-"An overview of the AMA anti-chiropractic conspiracy and its implications" (pp. 15-9)

1978 (Sept/Oct): ***Digest of Chiropractic Economics*** [21(2] includes:
-Leonard D. Godwin, D.C. of Fullerton CA authors "The new medical conspiracy (a not so fabulous fable)" (pp. 40-1); suggests writing to Dr. Scott Haldeman for further information

1978-1979: Depositions in the Wilk case (McAndrews, 2002/SAGA) include:
-Dr. John C. Wilson, former Director of the American Academy of Orthopedic Surgery, testified as follows:

Q: Is it possible to manually move a spinal joint through a range of motion?

A: I simply cannot answer your question in that context.

Q: Can you answer the question in any context including your own?

A: **No, because this is not a frame of reference in which medical doctors think, and we don't relate to turning spinal joints around through manipulation. That is the chiropractic concept, and we don't understand it. We don't relate to it. We don't know what you are talking about.**

Q: Have you ever done any research into that?

A: No. And I don't have any desire to do any research into that or any other cult.

Q: I am not really talking about cults now. I am talking about the manual manipulation of spinal joints.

A: No. I have no interest in or desire to pursue the manipulation of spinal joints as a theory.

Q: Why?

A: Because I don't believe in this kind of thing. I don't know of any scientific basis that would cause me to pursue this a s a way to help people.

-Dr. John McMillan Mennell (member of the expert ad hoc panel in 1968) testified as follows about the lack of education and training medical students receive in medical school on the musculoskeletal system:

Q: At the medical schools with which your are familiar, do you know about the educational program in the musculoskeletal pain area for medical students?

A: …**Usually it is anything between zero to four or five**.

Q: **Hours?**

A: **Yes, in four years**.

1978 (Nov/Dec): ***Digest of Chiropractic Economics*** [21(3] includes:
-Anthony J. Cichoke, M.A., D.C. and Henry G. West, Jr., B.S., D.C. of Portland OR author "Comparative low back study of patients treated by a chiropractic physician and those treated by a medical physician" (p. 118)

1979 (Jan/Feb): ***Digest of Chiropractic Economics*** [21(4)] includes:
-Jerome F. McAndrews, D.C., ICA executive vice president, authors "The Antitrust Suit: what a successful outcome may bring" (p. 54)

1979 (Sept/Oct): ***Digest of Chiropractic Economics*** [22(2)] includes:
-"New York attorney general files suit against AMA, etc." (. 61)

1979: The Royal Commission of Inquiry on Chiropractic in New Zealand, which did not include any chiropractors in its membership, after 18 months of study, concluded (McAndrews, 2002/SAGA):

34. The Commission has found it established beyond any reasonable degree of doubt that chiropractors have a more thorough training in spinal mechanics and spinal manual therapy than any other health professional. It would therefore be astonishing to contemplate that a chiropractor, in those areas of expertise, should be subject to the directions of a medical practitioner who is largely ignorant of those matters simply because he has had no training in them.

1980 (Nov): ***ACA Journal*** [17(11)] includes:
-"Chiropractors settle antitrust suit with the American Osteopathic Association" (pp. 38-40); **photos** plaintiffs: Drs. Arthur, Bryden, Lumsden, Pedigo, Wilk

PHOTOGRAPH

James W. Bryden, D.C., **circa 2000?**

1980 (Nov 20): ***AXIS*** (WSCC student newspaper) [7(2)] includes:

-"A Challenge!!" (p. 1):

To: WSCC Student Body

From: Cleveland Chiropractic College's Student Council

DONATE TO THE ANTI-TRUST FUND

We have asked each of our students to contribute $10.00. We will accept more or less… We challenge other student bodies to match our student's donations.

We have one lawyer against 28 – we are David going out after Goliath. We need to rattle our bones to support our profession. ACCEPT THE CHALLENGE!!

If we lose this suit, we have only ourselves to blame. Contribute to our future…

1982 (May/June): ***DCE*** [24(6)] includes:

-"Supreme Court checks AMA monopolistic practices through the FTC" (p. 84)

1982: Congress established Medicare Part B, pursuant to 42 U.S.C. § 1395u, authorizing the Secretary to enter into contracts with private health insurance carriers through HCFA; Congress also established 42 U.S.C. § 1395mm, a "managed care" Medicare HMO/CMP system, wherein a Medicare beneficiary may receive benefits through a private insurance carriers' Medicare HMO/CMP plan (McAndrews, 2002/SAGA)

1984 (Feb 9-12): minutes of "Proceedings of the 51st Annual Congress" of FCLB in Montreal; Donald Ross, D.C., president; Arnold Goldschmidt, D.C., VP; Cynthia E. Preiss, D.C., "executive director-treasurer"

-Ed Samuel, D.C. offers "Hydrolevel decision as it affects all professions" (pp. 17-8):

Associations of learned professions were traditionally regarded as being exempt from antitrust laws until the last few years. This did not apply to individuals. The earliest chink in such a defense was over 30 years ago when the courts of record began finding a doctor a tradesman, "selling his wares."

U.S. Supreme Court, Goldfarb v. Virginia State Bar, 421 US 733 (1975). The court found learned professions subject to federal antitrust the same as other types of trade or commerce. U.S. Supreme Court National Society of Professional Engineers v. United States 435 US 679 (1978). Court stated professional associations are engaged in trade or commerce and a profession's concern for safety standards does not permit suppression of competition.

These decisions started a trend for all types of litigation involving professional associations. Arizona v. Maricopa County, 102, S. Ct 2466 (1982); Union Labor Life Ins. Co. v. Pireno, 102 S. Ct 3002 (1982); Wilk v. AMA, No. 81-1331 (7th Circuit) (9/19/83) to cite three. This activity is increasing the attention of the FTC to Health Care providers.

Non-profit association legal liability has been extended to include the actions of people in apparent authority who are by their actions injuring others or who pose a threat to others. The same principle applies to individuals with a conflict of interest, which at this time has been extended to a moral conflict as well as a pecuniary conflict of interest.

In simpler terms, when we wear many hats we become more vulnerable to legal suits.

Example:

A member of the Board of Chiropractic Examiners (BCE) is also functioning as an IME, for pay. This person poses disciplinary action on a licentiate who had been treating the patient examined by the IME. The BCE member in the dual role based the discipline on theory of practice rather than the law.

Example:

A BCE member is also a paid consultant to one or more insurance carriers. The BCE member/paid consultant indicates to the carriers who should be used or employed as IME therefore effectively by-passing qualified training independent examiners.

The way to protect oneself when wearing multiple hats, is to exclude oneself from decisions which may involve conflicts of interest (both moral and monetary) which restrain trade, even if you are right in your opinion.

-Paul Tullio, D.C. offers "Antitrust update" (p. 19); includes:

The 7th U.S. Circuit Court of Appeals, Chicago, in Wilk vs. AMA, No. 81-1331 (7th Cir. Sept. 19, 1983) reversed a 1981 jury verdict finding the AMA and other organizations innocent of antitrust charges brought by five Doctors of Chiropractic.

The appellate Court ordered a re-trial…

-Thomas Morgan, D.C. offers "International Chiropractors Association's Report" (pp. 20-23); includes:

…A year ago, for example, would we have believed that the year would bring an end to the last remnant of organized opposition to chiropractic from a major health organization? The decision by the American Public Health Association to replace its 14 year old anti-chiropractic policy position ended a movement that had been aided and enhanced by the medical establishment since the 1960s…

1986: According to Wardwell (1992, p. 207):

...Chiropractors claim that the risks [of manipulation injury] have been exaggerated by critics and that problems occur far less frequently than the iatrogenesis of medication errors, side effects and toxic interactions, infections endemic to hospitals, and surgical deaths. In support of their arguments they point to the relatively low cost of their malpractice insurance compared with that of medical general practitioners and specialists, despite chiropractor Peter J. Modde's (1979) prediction that chiropractors would soon suffer many malpractice suits. In one of the documents submitted in the antitrust trial (Wilk, 1976, Plaintiff's Exhibit No. 439) an official of Blue Shield wrote "Doyl Taylor...urged that we stay clear of attempts to show [chiropractors'] civil malpractice suits. With the relative weight in numbers against physicians he felt we'd by playing with dynamite." He was right. In a Medical Economics article Holoweiko (1987) reported that one of every 23 DCs was sued in 1986, compared with one of every five MDs and DOs, and the results of the suits were that for chiropractors (who paid an average insurance premium of $1,393) 45% of the suits were closed without payment, with an average cost of those resolved of $28,162, whereas for MDs and DOs (whose median insurance premium was $8,346) 57% of the suits were closed without payment but the average cost of resolution of the others was $80,741...

1987: *Wilk v.American Medical Ass'n*, 671 F. Supp. 1465, 1479 (N.D. Ill. 1987) (The judge held that the AMA engaged ina systematic, successful, illegal boycott against chiropractors.) The judge also held that the AMA could not be held liable under the Antitrust laws for conspiring with HEW officials. The private groups were held accountable for their conspiracy (McAndrews, 2002/SAGA); includes:

…But, according to the court (and this is unchallenged), at the same time, there was evidence before the committee that chiropractic was effective, indeed more effective than the medical profession, in treating certain kinds of problems, such as back injuries. The [AMA] committee was also aware, the court found,

that some medical physicians believed chiropractic could be effective and that chiropractors were better trained to deal with musculoskeletal problems than most medical physicians (p. 12).

…The trial court also specifically found that : "Even the AMA's economic witness, Mr. Lynk, assumed that chiropractors outperformed medical physicians in the treatment of certain conditions and he believed that was a reasonable assumption (Tr. 1414).

Wilk v AMA, 895 F.2d at 356 (7th Cir. 1990).

1987 (July 15): ***Dynamic Chiropractic*** [5(14)] includes (in my Wilk file):
-headline first page "THE TRIAL IS OVER" (pp. 1-2, 7, 32)
-"The Chicago Four speak out" (pp. 3, 6)

1987 (July 23): letter on stationery of the ***Journal of Bone and Joint Surgery*** (in my Wilk file):

John W. Frymoyer, M.D.
Administrative Office
1 South Prospect Street
Burlington, VT 05401

Dear John:

Thank you for your letter of July 14, 1987. I am always touched when someone thinks of the Current Concepts. I am afraid that I cannot visualize a Current Concepts on "THE USES AND ABUSES OF LUMBAR SPINAL RADIOGRAPHY". Furthermore, I suspect that The **Journal offices would be firebombed if a chiropractor were to appear as a co-author**. Old feuds die hard, and I doubt if The Journal's readers are ready for that yet.

I shall have to look up your article in Spine. It is not a Journal which I regularly consult.

I hope I have your willingness to continue to apply to you for further Current Concepts, although I am afraid that I cannot use the one you have suggested.

Best regards.

Sincerely,
Paul H. Curtiss, Jr., M.D.
Editor Emeritus

PHOTOGRAPH

George McAndrews, 1987

1987 (Oct): ***ACA Journal of Chiropractic*** [24(10)] includes:
-"Wilk vs. AMA: an interview with George P. McAndrews, Part 1" (pp. 26, 28-31)
-James F. Winterstein, D.C., D.A.C.B.R., president of National College of Chiropractic, authors "Wilk vs. AMA: the experiences of an expert witness" (pp. 32-4)

1987 (Nov): ***ACA Journal of Chiropractic*** [24(11)] includes:
-"Wilk vs. AMA: an interview with George P. McAndrews, Part II" (pp. 39-45)
-Miron Stano, Ph.D. authors "Estimates of the economic losses resulting from the AMA boycott against chiropractors" (pp. 52, 56, 59)

1987 (Dec): ***ACA Journal of Chiropractic*** [24(12)] includes:
-Cheryl J. Lichak of FCER authors "After the Wilk decision, scientific validation: the next critical hurdle" (pp. 53, 56); includes discussion of Judge Getzendanner's decision not to pass judgment on on scientific merit of chiropractic:

…ACA Executive Vice President Ronald L. Harris, D.C., voiced similar concerns at the October dedication of the new Science, Research and Ergonomics Center at Logan College of Chiropractic. He said, "The latest ruling in the Wilk case reinforces the message… chiropracti c must develop a coherent reseach program which systematically evaluates and validates the principles and techniques central to the practice of chiropractic."

Dr. Wolk emphasized that this is exactly what FCER can and is doing…

1988 (Jan 1): JAMA [259(1)] includes:
-"Special communication" (pp. 81-2) is "Permanent Injunction Order Against AMA" by federal District Judge Susan Getzendanner; includes:

…Although the conspiracy ended in 1980, there are lingering effects of the illegal boycott and conspiracy which require an injunction. Some medical physicians' individual decisions on whether or not to professionally associate with chiropractors are still affected by the boycott. The injury to chiropractors' reputatiosn which resulted from the boycott have not been repaired. Chiropractors suffer current current economic injury as a result of the boycott. The AMA has never affirmatively acknowledged that there are and should be no collective impediments to professional association and cooperation between chiropractors and medical physicians, except as provided by law. Instead, the AMA has consistently argued that its conduct has not violated the antitrust laws…

An injunction is necessary to assure that the AMA does not interfere with the right of a physician, hospital, or other institution to make an individual decision on the questiion of professional association...

1988 (Sept 23/30): ***JAMA*** [260(12)] includes:
-Paul H. Goodley, M.D. of Big Bear Lake CA authors letter to the editor (p. 1717):

To the editor. – The letter by Dr. Needles concerning Judge Getzendanner's chiropractic decision (1) did not address some of the fundamental issues of this problem, and I would like to express another perspective.

Chiropractic is not unified but regularly engages in internecine conflicts that reveal profound internal inconsistencies. Dr. Needles may be referring to this by first calling chiropractic a profession and then describing it as exploiting superstition and prejudice. He does not distinguish, however, between the exploitive elements and those chiropractic clinicians who have, in fact, made notable contributions.

As examples, the standard A-P open mouth radiological view of the cervical vertebrae was originally a chiropractic technique. A recent text on cervical injury written by chiropractors is already

well received (2). William V. Glenn, Jr., M.D., a well-known radiologist, ahs the impression, now under study, that chiropractic-requested studies produce a higher abnormal yield than those from MDs (Dr. Glenn, oral communication, June 22, 1988).

By lumping all chiropractic together, Dr. Needles expresses a common prejudice that frustrates understanding and possible solutions. Chiropractic has become established within our health care system, and its practitioners are entering some of our hospitals. Our choices are either to assist in its evolution toward a profession with clear definition or to remain distant because of the undesirable aspects of chiropractic.

A basic problem hat feeds the issue is that traditional medicine confuses manipulation – a dynamic and multifaceted therapy – with chiropractic, a conflicting ideology in which manipulation is its prime symbol. Because of this, medicine does not teach the biomechanical basics of hands-on examination of individual joints, especially vertebral.

Historically, chiropractic only exists because we relegated the field of manipulative investigation to chiropractors. A.T. Still, M.D., reluctantly founded osteopathy in 1874 because his concepts were repudiated by other physicians. Palmer founded chiropractic in 1895 after working first with Still. Alva Gregory, M.D., in 1904, published articles about manipulation and, unsuccessfully, urged its acceptance (3). Those were times to which Oliver Wendell Holmes referred when he commented that were the pharmacopoeia to be thrown into the sea, only the fish would be worse off. Present medical attitudes date from that period.

Dr. Needles does make one statement that seems out of context with his allegations: "She [Judge Getzendanner] does not see that a therapeutic maneuver can be effective without having scientific merit." Whatever his intention, manipulation does have scientific support, but because it is primarily an art in its delivery, as is surgery, we encounter problems in establishing unambiguous statistical evidence. Recent medical texts (4) support the efficacy of manipulation as a rational approach to certain conditions, and a long universal medical tradition supports it (5).

1. Needles CF: The AMA, chiropractic, and Judge Getzendanner's injunction. *JAMA* 1988; 259: 2694-2695.
2. Foreman SM, Croft AC: *Whiplash Injuries – The Cervical Acceleration/Deceleration Syndrome*. Baltimore, Williams & Wilkins, 1988.
3. Gregory AA: *Spinal Treatment – Auxiliary Methods of Treatment*. Palmer-Gregory College, 1904.
4. Kirkaldy-Willis WH: *Managing Low Back Pain*, ed 2. New York, Churchill Livingstone Inc., 1988.
5. Schiotz EH, Cyriax J: *Manipulation, Past and Present*. Portsmouth, NH, Heinemann Educational Books, Inc., 1975.

-Carl F. Needles, M.D. of Merrick NY answers (p. 1717):

In Reply. – Dr. Goodley raises some interesting points in his letter, but I have several bones to pick with him. Despite formidable contributions to the diagnosis and therapeutic armamentarium, chiropractors are not content to portray their activity as a variety of physiotherapy; rather, they tell the public that malalignments of the spine cause pain through neural pathways and that manipulation can improve these as well as some systemic diseases. No less an authority than Judge Getzendanner had to acknowledge that these claims might be invalid. She nevertheless reasons that because some clients feel better after manipulation that chiropractic is therapeutically effective. However, much of this amelioration is likely to be due to suggestion and placebo effect.

A surgical procedure is successful because it corrects distortions in anatomy and physiology that usually have been discerned preoperatively. But success does not depend on the artfulness of the surgeon, it hinges on his science. Manipulation, on the other hand, in both senses of the term, works best in those who are vulnerable because of the effects of stress and spasm.

1989 (Jan 13): ***JAMA*** [261(2)] includes:

-Sherwin B. Nuland, M.D. of New Haven CT authors additional reply to Paul H. Goodley, M.D. (p. 248):

To the Editor. – Oliver Wendell Holmes was a great man, but he was no Nostradamus. When Dr. Goodley (1) describes the famous statement about feeding the pharmacopoeia to the fishes as referring to events in 1874, 1895, and 1904, he is up to the gills in anachronism. Holmes made his memorable comment at a meeting of the Massachusetts Medical Society in 1860; he died in 1894, blissfully unaware of the imminent birth of chiropractic.

1. Goodley PH: Chiropractic and Judge Getzendanner's injunction. *JAMA* 1988; 260: 1717.

1989 (Apr): ***JMPT*** [12(2)] includes:

-David Chapman-Smith, LL.B. authors "The Wilk case" (pp. 142-6)

1989 (Nov/Dec): ***Chiropractic Achievers*** [3(6)] includes:

-"Sore Throat speaks…again" (pp. 54-6); notes that William Trever, author of In the Public Interest, was Sore Throat's pen name; notes AMA now aiming at chiropractic practice management companies; includes:

…Sore Throat's most important message is that chiropractic has to end its philosophical in-fighting, stand together behind our management firms against its enemies and focus on building the profession…

1990 (Jan): ***ACA Journal of Chiropractic*** [27(1)] includes:

-George P. McAndrews authors "ACA Counsel responds to article" (pp. 49-50); includes:

EDITOR'S NOTE: The following article is a response to a story that appeared in the November/December issue of Chiropractic Achievers *entitled "Sore Throat Speaks… Again."*

To give some background, "Sore Throat" was an alias used by the person who obtained secret documents from the American Medical Association, used in the 1987 Wilk et al vs. AMA et al trial, in which it was shown that the AMA conspired to discredit and stop the growth of chiropractic.

In the Chiropractic Achievers *article, there was an unsubstantiated and questionable claim that "Sore Throat" had reappeared to supply Chiropractic Achievers magazine with information, this time taking the side of practice builders. The rather strange theory is that the AMA is now trying to destroy chiropractic by discrediting practice management and consulting firms. In the article, the writer who purports to have talked to "Sore Throat" states that chiropractors should unite behind these firms to protect chiropractic, arguing that, in so doing, they would defend themselves against the AMA's "insidious and indefensible actions" by building individual practices and, therefore, chiropractic itself.*

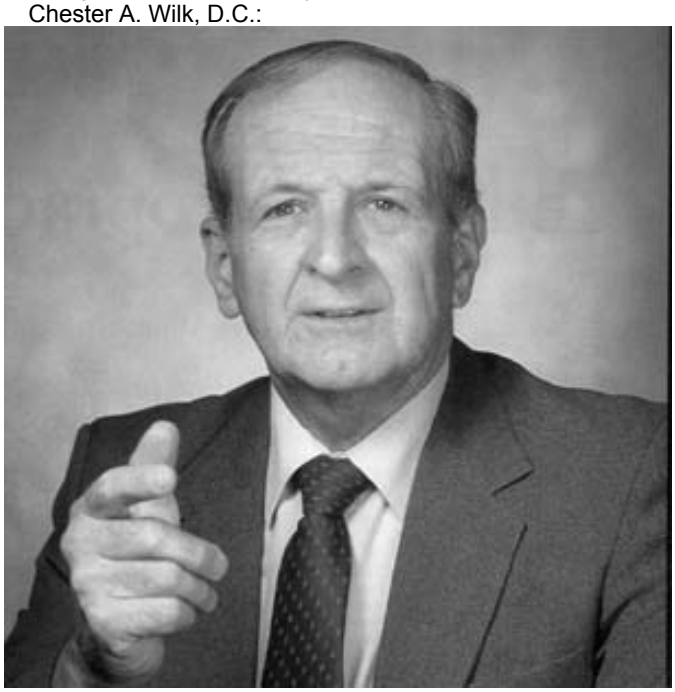
George P. McAndrews, attorney for the plaintiff in the Wilk case, and currently the general counsel for the ACA, had the experience of dealing directly with the original, mysterious "Sore Throat." He now offers the following response to what appears to be a rather weak argument in favor off supporting the profit-making approach of some practice builders.

_____

I was in my office this past Saturday and had an opportunity to read the article entitled "Sore Throat Speaks…Again" in the November/December issue of *Chiropractic Achievers*.

Forgive me but that article is pure drivel…

1990 (Apr/May): ***Chiropractic Achiever*** [4(2)] includes:
-"Telling chiropractic's story" (pp. 25-9) includes photo of Chester A. Wilk, D.C.:



1990 (June 2): ***British Medical Journal***, Meade study (McAndrews, 2002/SAGA):

Results: Chiropractic treatment was more effective than hospital outpatient management, mainly for patients with chronic or severe back pain. A benefit of about 7 percent points on the Oswestry scale was seen at two years. The benefit of chiropractic treatment became more evident throughout the follow up period. Secondary outcome measures also showed that chiropractic was more beneficial.

Conclusions: For patients with low back pain in whom manipulation is not contraindicated, chiropractic almost certainly confers worthwhile, long term benefit in comparison with hospital outpatient management. The benefit is seen mainly in those with chronic or severe pain. Introducing chiropractic into NHS practice should be considered.

The potential economic, resources, and policy implications of our results are extensive. The average cost of chiropractic investigation and treatment at 1988-9 prices was $273.90 per patient compared with $184.26 for hospital treatment. Some 300,000 patients are referred to hospitals for back pain each year, "of whom about 72,000 would be expected to have no contraindications to manipulation." If all these patients were referred to chiropractic instead of hospital treatment the annual cost would be about $6,640,000. Our results suggest that there might be a reduction of some 29,000 days in sickness absence during two years, saving about $21,580,000 in output and $4,814,000 in social security payments.

1990 (Nov): As a result of numerous complaints from chiropractors and their patients to their respective representatives, complaining of underutilization of the chiropractic service by medicar HMOs and CMPs, Congress passed a law requiriing the Secretary of HHS to conduct a study on the extent to which Medicare HMO/CMPs were providing chiropractic services to Medicare beneficiaries. The report was to be submitted in January of 1993. HHS ignored the Congressional request (McAndrews, 2002/SAGA)

1990: Wilk v. American Medical Association, 895 F.2d 352, (7th Cir. 1990), holding (McAndrews, 2002/SAGA):
…**The district court's [remedy] was a reasonable attempt at eliminating the consequences of the AMA's lengthy, systematic, successful, and unlawful boycott**…

1991 (June 28): "ACA Convention Report" prepared by Linda L. Zange DC, Illinois state delegate to ACA (FLI Archives):
Dear Northern Illinois ACA Member:…
CAPITOL HILL the 102nd CONGRESS:
…Medicare amendment which would expand coverage to include x-rays and physical exams, S.614 cosponsored by Sen. Simon...

ACA has provided testimony to Congressional committees on Federal funding for chiropractic research, ERISA, HEAL student loan programs, and to the Advisory Council on Social Security. ACA has met with the U.S. Public Health Service, HHS on the Medicare fee schedule. ACA met with Sen. Mitchell regarding his proposed National Health Care Reform Plan, called "The Health America Act" and chiropractic services are covered in the bill.

1992 (Feb): ***ACA Journal of Chiropractic*** [29(2)] includes:
-"Chiropractic's 15-year legal fight with AMA ends: settlement includes changes in AMA's ethics code" (p. 16)
-letter to DCs from George P. McAndrews, Esq. (pp. 49-50)
-"Publishing Wilk case court order brings end to litigation" (p. s-53)
-George P. McAndrews authors "Chiropractors ask for physician dialogue, not confrontation" (pp. S54-S56)

1992 (Nov): ***ACA Journal of Chiropractic*** [29(11)] includes:
-"In memoriam: John Mennell, M.D., noted scholar and friend of chiropractic" (p. 79); includes **photo** of Dr. Mennell

Wardwell (1992, p. 263) notes that NCMIC "...offers liability insurance to all licensed chiropractors, fearing antitrust litigation if it refuses." ACA membership requirement dropped by NCMIC in 1981

1993 (Feb): ***ACA Journal of Chiropractic*** [30(2)] includes:
-"Anti-trust case award settlement: a report from the National Chiropractic Antitrust Committee" (pp. 19-20); notes "ACC restricted fund to the Consortium for Chiropractic Research"

1993 (Mar): ***ACA Journal of Chiropractic*** [30(3)] includes:
-"Former federal judge in Wilk case to highlight ACA Hawaiian convention" (p. 50); includes photograph of Judge Getzendanner:

1993 (Sept 4): Congress expresses concern with HHS' failure to provide the report and amends the due date and again passes a bill requiring a report from HHS by September of 1994. HHS again ignores the Congressional request (McAndrews, 2002/SAGA)

1994 (Aug): ***ACA Journal of Chiropractic*** [31(8)] includes:
-"Katz retracts statement" (p. 16):

The following is a copy of a retraction sent to the Medical Post *from Dr. Murray Katz about the editorial run by the publication in which there were allegations attributed to Dr. Katz about his comments on the quality of Canadian Memorial Chiropractic College's quality of education. Both the* Medical Post *and Dr. Katz have now issued formal retractions.*

Dr. Katz is one of the promoters of "orthopractic."

Attention Derek Cassels
Editor, The Medical Post

I agree with the retraction made by the *Medical Post*. It was never my intention to suggest that graduates of the CMCC are not qualified to practice chiropractic. In fact, I consider the CMCC to be one of the best chiropractic schools in North America."

Sincerely,
Murray S. Katz, M.D.

1994 (Oct 31): Congress reaffirms its demand for a report on the study of chiropractic – but eliminates the requirement of a "final report"; HHS and HCFA cntinue to ignore the Congressional demand (McAndrews, 2002/SAGA)

1994 (Dec 14): HHS and HCFA issue Operational Policy Letter #23, without notice-and-comment, stating that managed care plans are not required to offer manual manipulation of the spine to correct a subluxation through chiropractors and that non-physicians, such as physical therapists may provide this treatment. (Later HHS was forced to retract the latter portion in response to a November 12, 1998 suit against Secretary Shalala brought by the American Chiropractic Association, but HCFA refused to publish a retraction or cancel the Policy letter) (McAndrews, 2002/SAGA); on page 10, footnote 8 of the Secretary's memorandum in support of his (then her) motion to dismiss, the Secretary admitted:

…We noted that ACA has acknowledged in a press release dated June 17, 1999, that HCFA agrees with its argument in Count II of its Amended Complaint that a physical therapist is not qualified to provide a "physician's service" because such a practitioner does not meet the definition of "physician" in 42 U.S.C. §1395x(r) and, therefore, cannot be paid by Medicare for providing the service defined in section 1395x(r) as manual manipulation of the spine to correct a subluxation. Thus, we agree with Plaintiff that an M+C organization could not purport to make this physician service available to enrollees through a physical therapist…

1997 (Aug 5): Congress amends 42 U.S.C. § 1395x(r)(5) and eliminates the x-ray requirement (McAndrews, 2002/SAGA)

1998 (May 14): HCFA issued a "solicitation of comments" for a document entitled "Quality Improvement System for Managed Care," which provided that managed care organizations may provide manual manipulation of the spine to correct a subluxation through physicans and/or physical therapists. The proposal was never adopted, presumably due to adverse comments (McAndrews, 2002/SAGA)

1998 (July): ***Annals of Internal Medicine*** [129(???)] includes (McAndrews, 2002/SAGA):
-(pp. 65-6):

…The Agency for Health Care Policy and Research (AHCPR) recently made history when it concluded that spinal manipulative therapy is the most effective and cost-effective treatment for low back pain. The 1994 guidelines for acute low back pain developed by AHCPR concluded that spinal manipulation hastens recovery from acute low back pain and recommended that this therapy be used in combination with or as an alternative to nonsteroidal anti-inflammatory drugs. At the same time, AHCPR concluded that various traditional methods, such as bed rest, traction, and other physical and pharmaceutical therapies were less effective than spinal manipulation and cautioned against lumbar surgery except in the most severe cases. Perhaps most significantly, the guidelines state that unlike nonsurgical interventions, spinal manipulation offers both pain relief and functional improvement. One might conclude that for acute low back pain not caused by fracture, tumor, infection, or cauda equina syndrome, spinal manipulation is the treatment of choice.

Because acute low back pain is the most prevalent ailment and most frequent cause of disability for persons younger than 45 years of age in the United States, adherence to these practice guidelines could substantially increase the numbers of patients referred for spinal manipulation. Chiropractors provide 94% of spinal manipulation; limited numbers of physical therapists and traditional osteopathic physicians provide the remainder.

1998 (Oct): ***Journal of Bone & Joint Surgery*** [??(??)] (McAndrews, 2002/SAGA) includes:
-Kim B. Freedman, M.D. and Joseph Bernstein, M.D., M.S. author "The adequacy of musculoskeletal medicine" (pp. ??); includes:

…Second only to upper respiratory illness, musculoskeletal symptoms are the most common reason that patients seek medical attention, accounting for approximately 20% of both primary-care and emergency-room visits. Musculoskeletal problems were reported as the reason for 525 (23 percent) of 2285 visits by patients to a family physician, and musculoskeletal injuries accounted for 1539 (20%) of 7840 visits to the emergency room. The delivery of musculoskeletal care is spread across a spectrum of practitioners, including not only orthopedic surgeons but also internists, family physician, and pediatricians, among others.

Moreover, under the so-called gatekeeper model that is prevalent in managed-care systems, physicians other than orthopedic surgeons will provide an expanding share of this musculoskeletal care. Mastery of the basic issues in musculoskeletal medicine is therefore essential for all medical school graduates…

In summary, seventy (82%) of eighty-five medical school graduates failed a valid musculoskeletal competency examination. We therefore believe that medical school preparation in musculoskeletal medicine is inadequate.

1998 (Nov 12): ACA files its complaint against then Secretary of HHS, Donna Shalala, seeking to compel the Secretary to conduct the study and submit the report on chiropractic, which Congress originally ordered in 1990 and to compel HMOs to provide the chiropractic "physician's" service of "manual manipulation of the spine to correct a subluxation" only through doctors of chiropractic (McAndrews, 2002/SAGA)

1999 (Apr 12): HHS submits its report on chiropractic, nearly five years after it was due, as a result of ACA's lawsuit. It shows an 85% decrease in the use of doctors of chiropractic, compared with fee-for-service utilization in HMOs having a medical physician gatekeeper. It also shows that 22% of the managed care organizations with which HHS contracts for Medicare and Medicaid do not even purport to offer manual manipulation of the spine to correct a subluxation through chiropractors and very few indicate that the service is provided only by chiropractors (McAndrews, 2002/SAGA)

1999 (Aug 23): interview with Kent Forney in West Des Moines:
-NCMIC dropped ACA-membership requirement in mid-1980s, owing to Forney's concerns about possible anti-trust action; Forney's concerns paralleled those of Harry Rosenfield

2002 (May): received from Allen Parry DC, distributed at recent ACA House of Delegates meeting, an oversized document prepared by George McAndrews, J.D., titled "**The Saga of Chiropractic**" (in my Wilk file); Jerry McAndrews, D.C. affirms that brother George prepared the document

2003 (July 2): e-mail forwarded:
To: All USA Members
From: Rob Sherman
Date: 7/2/2003 07:37 AM

If this posting was forwarded to you and you would like to receive periodic updates on chiropractic, please send an email with the word SUBSCRIBE in the subject line and your NAME and STATE WHERE YOU RESIDE in the subject line. Your name is never provided to anyone else. Rob Sherman

●●●●●●●●Original Message●●●●●●●●●

Subj: who are more trained in musculoskeletal areas?
Date: 7/2/2003 7:34:06 AM Eastern Daylight Time
From: drwjahn@ix.netcom.com
To: ShermanRPS@aol.com
Sent from the Internet (Details)

AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES

Resolution: 310 (A-03)
Introduced by: American Orthopaedic Foot and Ankle Society; American Academy of Orthopaedic Surgeons
Subject: Musculoskeletal Care in Graduate Medical Education
Referred to: Reference Committee C (George Thomas, MD, Chair)

Whereas, Musculoskeletal problems are a leading cause of pain and disability in our society; and

Whereas, The United States has been joined by 27 other countries and the United Nations in declaring the decade 2000-2010 as the Bone and Joint Decade; and

Whereas, Managed care and our health care system generally are requiring primary care physicians to manage more musculoskeletal conditions than ever before; and

Whereas, All physicians need to understand the basic principles of diagnosing and treating such conditions in order to be able to properly care for their patients; and

Whereas, Medical schools should provide physicians with this base level of knowledge; and

Whereas, According to a recent study, 82% of recent medical school graduates examined failed to demonstrate basic competency in musculoskeletal medicine; and

Whereas, A follow-up study reported that according to the standard suggested by the program directors of internal medicine residency departments, a large majority of the examinees once again failed to demonstrate basic competency in musculoskeletal medicine; and

Whereas, It is therefore reasonable to conclude that medical school preparation in musculoskeletal medicine is inadequate; therefore be it

RESOLVED, That our American Medical Association strongly urge our medical schools to formally reevaluate the musculoskeletal curriculum with the input of the American Academy of Orthopaedic Surgeons and the orthopaedic subspecialty organizations (Directive to Take Action); and be it further

RESOLVED, That our AMA strongly urge our medical schools to make changes that ensure medical school students have the appropriate education and training in musculoskeletal care, and make competence in basic musculoskeletal principles a graduation requirement for medical school (New HOD Policy); and be it further

RESOLVED, That our AMA encourage its representatives to the Liaison Committee on Medical Education, the Accreditation Council for Graduate Medical Education, and the various Residency Review Committees to promote higher standards in basic competence in musculoskeletal care in accreditation standards. (Directive to Take Action)

Fiscal Note: No Significant Fiscal Impact
Received: 5/15/03

2003 (Nov 4): e-mail forwarded from J.C. Smith, M.A., D.C. (jcsmith@smithspinalcare.com):

Trigon and the Continuing Conspiracy Against Chiropractic

The current lawsuit against Trigon Blue Cross/Blue Shield (now Anthem) is a byproduct of the 100-year history of competitive hostility by medicine against chiropractic. This case, like Wilk v. AMA, involves a direct attempt by Trigon and the Virginia state medical societies and schools to retard, deter or inhibit referrals by MDs to chiropractors. It is also an effort to prevent chiropractors and their patients from gaining the millions of dollars in insurance monies currently going to MDs. The district court refused to allow discovery that would link the remnants of the enjoined nationwide conspiracy (outlined in Wilk v. AMA) to the conspiracy alleged in the Trigon case.

This historical summary, taken from the appeal brief filed by attorney George McAndrews, provides the necessary background for DCs to understand clearly why the Trigon lawsuit is so critical to ending the continuing and severely detrimental effects of the

medical boycott of chiropractic. The complete appeal brief is available online at www.chiroweb.com/trigon.

MDs Ready to Conspire

In 1962, Robert Throckmorton, of the Iowa Medical Society and later, general counsel of the American Medical Association) demanded that the entire medical community "undertake a positive program of 'containment'" to prevent chiropractors from obtaining insurance coverage:

"If this program is successfully pursued, it is entirely likely that chiropractic as a profession will 'wither on the vine' and the chiropractic menace will die a natural but somewhat undramatic death. This policy of 'containment' might well be pursued along the following lines Oppose chiropractic inroads in health insurance."

In 1963, Robert Youngerman of the AMA stated: "It would seem from certain declarations of the House of Delegates and the Judicial Council, that the ultimate objective of the AMA theoretically is the complete elimination of the chiropractic 'profession.'"

The United States Court of Appeals for the Seventh Circuit, in affirming a nationwide injunction against the AMA, characterized the 28-year national campaign by medical organizations and their members to destroy chiropractic as "lengthy, systematic, successful, and unlawful. " The boycott was orchestrated by a full-time, multi-employee, medical physician-directed committee of the AMA Board of Trustees.

The nature of the boycott is shown in the Wilk decision:

The Wilk Court [7th Circuit] held: "even without coercive enforcement, a court may find that members of an association promulgating guidelines sanctioning conduct in violation of Sec. 1 participated in an agreement to engage in an illegal refusal to deal."

The purpose of the boycott was to contain and eliminate the chiropractic profession. This conduct constituted a conspiracy among the AMA and its members and an unreasonable restraint of trade in violation of Section 1 of the Sherman Act.

In 1967, the AMA Judicial Council issued an opinion under Principle 3 specifically holding that it was unethical for a physician to associate professionally with chiropractors. "Associating professionally" would include making referrals of patients to chiropractors. This opinion was widely circulated to members of the AMA. The opinion on chiropractic was also sent by the AMA to 56 medical specialty boards and associations.

As noted by the Court of Appeals, some medical physicians (such as orthopedic surgeons, internists, and general practitioners) are in direct competition with chiropractors in this market. Medical physicians and chiropractors are interchangeable for the same purposes. Consumers seek both medical physicians and chiropractors for the same complaints, principally back pain and other neuromusculoskeletal problems, and both groups render services for the treatment of those complaints.

Competition between medical physicians and chiropractors was recognized by Dr. Joseph A. Sabatier, a member of the Committee on Quackery and a former defendant in the Wilk case, as early as 1964. At one point, Dr. Sabatier stated, "It would be well to get across that the doctor of chiropractic is stealing [the young medical physician's] money."

It is no coincidence that a majority of Trigon's Provider Policy Committee are members of the Medical Society of Virginia, including Dr. Blanchard, its president. He became a member of the committee in 1997 because of his "connections with the Medical Society of Virginia." He specifically "concurred" that a Trigon contract should be delayed "in an attempt to reach as much mutual agreement as possible" with medical doctors.

The Trigon Managed Care Advisory Panel, also consisting primarily of MDs, collusively assembled and distributed scientifically distorted "back pain guidelines" to more than 90 percent of the medical physicians in Virginia. Each and every outside society that "appointed" an agent to the panels of Trigon is an organization of competitors of chiropractors.

Some of the anti-competitive effects acknowledged by Mr. Lynk [the AMA's PhD economist] include the following: It is anti-competitive to raise costs to interfere with consumers' free choice to take the product of their liking, and it is anti-competitive to prevent medical physicians from referring patients to chiropractors.

The Court of Appeals in Wilk, which reviewed substantially the same boycott evidence, concluded:

"Through such mechanisms, individual physicians were discouraged from cooperating with chiropractors in patient treatment, because referrals were inhibited by defendants' activities Referrals from medical doctors were reduced. Public demand for chiropractic services was negatively affected."

There also was some evidence before the Trigon's Provider Policy Committee that chiropractic was effective - more effective than the medical profession in treating certain kinds of problems, such as workers' back injuries. Trigon's committee did not follow up on any of these studies or opinions. Basically, the committee members were medical doctors who, because of their firm belief that chiropractic had to be stopped and eliminated, volunteered for service on the committee.

The former president of the Virginia Medical Society, Dr. Hotchkiss, was appointed to the committee because of his society's active anti-chiropractic programs.

Blue Shield Plans' Participation in Prior Conspiratorial Activity

In 1969, Blue Shield, at the behest of the AMA, began to counter state insurance equality laws by disallowing insurance payments to chiropractors:

We have filed and may use in 6 states an exclusion deleting manipulative services and subluxations for the purpose of relieving nerve interference. Basically, the exclusion extends to services of a chiropractor by definition. We are proceeding to file this exclusion in all states for basic and Major Medical contracts.

Then, in 1973, Blue Shield admitted:

Resistance to chiropractic payment may be indicated by the fact that fewer Plans make payment than the laws require.

In 1979, the federal government recognized that Blue Shield, known as the "house of medicine," was dominated by medical physicians who decide "whether and how much [Blue Shield] plans will pay for the services of non-physicians."

In 1980, the Fourth Circuit condemned Virginia Blue Cross Blue Shield's (Trigon's direct predecessor) plan for trying to freeze out competitive providers:

The issue is more than one of professional pride. State law recognizes the psychologist as an independent economic entity as it does the physician. The Blue Shield policy forces the two independent economic entities to act as one, with the necessary result of diminished competition in the health care field. The subscriber who has a need for psychotherapy must choose a psychologist who will work as an employee of a physician; a psychologist who maintains his economic independence may well lose his patient. In either case, the psychologist ceases to be a competitor.

The economic expert testimony in the Wilk case was that 30 percent of all people with back complaints visit chiropractors and 29 percent of all professional services for back-related complaints are generated principally by doctors of chiropractic. Any slippage of the remaining 70 percent would be harmful to the medical doctors competing with the chiropractors and would force Trigon to look elsewhere to find the bonanza promised to its medical physician members in a Trigon publication:

With the completion of the RBRVS (Resource-Based Relative Value Scale) implementation, most Trigon allowances will be proportional to Federal Relative Values. For a small minority of services [i.e., chiropractors], market conditions will have dictated exceptions to RBRVS.

Trigon is optimistic that 1997 fee schedule changes can be much more favorable for network physicians. The performance-based reimbursement program described in the July issue of the Medical Forum creates new opportunities for physicians to increase their compensation while decreasing total health care costs for the next several years.

The Superiority of Chiropractic Education, Training and Effectiveness

From at least 1967 to the present, numerous studies by the responsible medical world have concluded that chiropractic education, training, and effectiveness, with respect to the treatment of neuromusculoskeletal conditions, is far superior to that of medical doctors.

For example, in 1967, Dr. Wilson, Chairman of the American Medical Association's Section on Orthopedic Surgery, reported on the complete inadequacy of the medical training in this area:

The teaching in our medical schools of the etiology, natural history, and treatment of low back pain is inconsistent and less than minimal. The student may or may not have heard a lecture on the subject, he may have been instructed solely by a neurosurgeon, or the curriculum committee may have decided that clinical lectures are "out" and more basic sciences "in." The orthopedic surgeon, to his distress, often sees his hours in the curriculum pared to the barest minimum.

Even the abundant and significant advances resulting from the medical profession's emphasis upon research have failed dismally to relieve modern man of one of his most common and bothersome afflictions - low back pain.

In 1979, the Royal Commission of Inquiry on Chiropractic in New Zealand, following an 18-month study, concluded:

The Commission accepts the evidence of Dr. Haldeman, and holds, that in order to acquire a degree of diagnostic and manual skill sufficient to match chiropractic standards, a medical graduate would require up to 12 months' full-time training, while a physiotherapist would require longer than that.

In 1980, John McMillan Mennell, MD, a prominent medical educator, swore under oath as follows:

"I think my testimony was that if you ask a bunch of new residents who come into a hospital for the first time how long they spent in studying the problems of the musculoskeletal system, they would, for the most part reply, "Zero to about four hours."

In 1998, the Journal of Bone and Joint Surgery reported as follows:

"Second only to upper respiratory illness, musculoskeletal symptoms are the most common reason that patients seek medical attention, accounting for approximately 20 percent of both primary-care and emergency-room visits. Musculoskeletal problems were reported as the reason for 525 (23 percent) of 2,285 visits by patients to a family physician, and musculoskeletal injuries accounted for 1539 (20 percent) of 7,840 visits to the emergency room. The delivery of musculoskeletal care is spread across a spectrum of practitioners, including not only orthopaedic surgeons but also internists, family physicians, and pediatricians, among others. Moreover, under the so-called gatekeeper model that is prevalent in managed-care systems, physicians other than orthopaedic surgeons will provide an expanding share of this musculoskeletal care. Mastery of the basic issues in musculoskeletal medicine is therefore essential for all medical school graduates.

Nevertheless, seventy (82 percent) of eighty-five medical school graduates from thirty-seven different schools failed to demonstrate such competency on a validated examination of fundamental concepts."

This conclusion was reaffirmed by the same medical journal in 2002. Please note that the journal does not even mention their principal competitors - the chiropractors.

Effectiveness of Chiropractic Care

Studies by the responsible medical world have shown, and continue to show, the fundamental efficiency and effectiveness of chiropractic care. For example, in 1972, Rolland A. Martin, MD, Director of Oregon's Workmen's Compensation Program, conducted a "Retrospective Study of Comparable Workmen's Industrial Injuries in Oregon" and concluded that chiropractic care was more effective than medical care, by a factor of 2 to 1:

Examining the forms of conservative therapy the majority received, it is interesting to note the results of those treated by chiropractic physicians:

A total of twenty-nine claimants were treated by no other physician than a chiropractor. Eighty-two percent resumed work after one week of time loss. Their claims were closed without a disability award.

Examining claims treated by the MD, in which the diagnosis seems comparable to the type of injury suffered by the workmen treated by the chiropractor, 41% of these workmen resumed work after one week of time loss.

Then, in 1975, Richard C. Wolf, MD, independently confirmed this 2 to 1 effectiveness ratio in a study, "A Retrospective Study of 629 Workmen's Compensation Cases in California":

The significant differences between the two groups appear to be as follows:

a. Average lost time per employee - 32 days in the MD-treated group; 15.6 days in the chiropractor-treated group.

b. Employees reporting no lost time - 21 percent in the MD-treated group; 47.9 percent in the chiropractor-treated group.

c. Employees reporting lost time in excess of 60 days - 13.2 percent in the MD-treated group; 6.7 percent in the chiropractor-treated group.

d. Employees reporting complete recovery - 34.8 percent in the MD-treated group; 51 percent in the chiropractor-treated group.

Similarly, a 1988 Florida Workers' Compensation Study concluded that "[t]he following findings and related conclusions warrant attention":

1. Patients treated by chiropractors, compared to those treated by osteopaths or medical doctors, showed the lowest rate of incurring a compensable injury.

2. Of the patients who incurred compensable injuries, those treated by chiropractors were less likely to be hospitalized for treatment.

3. Finally, and most importantly, considering the average number of services (procedures) and the average cost per service, chiropractic care for back injury represents a relatively cost-effective approach to the management of work-related injuries.

In 1990, the British Medical Journal published an abstract of a study titled "Low Back Pain of Mechanical Origin: Randomised Comparison of Chiropractic and Hospital Outpatient Treatment." The study, conducted by the MRC Epidemiology and Medical Care Unit, Northwick Park Hospital, Harrow Middlessex, stated the following:

Results - Chiropractic treatment was more effective than hospital outpatient management, mainly for patients with chronic or severe back pain. A benefit of about 7 percent points on the Oswestry scale was seen at two years. The benefit of chiropractic treatment became more evident throughout the follow up period. Secondary outcome measures also showed that chiropractic was more beneficial.

Conclusions - For patients with low back pain in whom manipulation was not contraindicated, chiropractic almost certainly confers worthwhile, long-term benefit in comparison with hospital outpatient management. The benefit is seen mainly in those with chronic or severe pain. Introducing chiropractic into [National Health Service (NHS)] practice should be considered.

Surprisingly, Trigon's chief medical doctor testified that the quality of health care given was of no concern to Trigon:

Q: Does Trigon in any way try to evaluate the effects of its insurance coverages, or lack of coverages, on the health care provided to those that are insured by Trigon policies?

A: No. Again, that's not the business that we're in.

But Trigon and its co-conspirators are in that business when it comes to chiropractors and their patients. Unfortunately for the patients, the concern is not for the patients, but for the competitive medical doctors.

The 1994 AHCPR Study

In 1994, the Agency for Health Care Policy and Research (AHCPR), an agency of the U.S. Department of Health and Human Services, issued a 170-page study titled Acute Low Back Problems in Adults, along with an accompanying 30-page "Quick Reference Guide for Clinicians" titled Acute Low Back Problems in Adults: Assessment and Treatment. The study was conducted by a multidisciplinary panel comprised of 12 medical physician experts, and other health care professionals and consumer representatives, who were brought together by the AHCPR to perform an evidence-based analysis of all research trials on all treatment approaches to acute low back pain in adults. Abstracts of more than 10,000 research papers were reviewed, and almost 4,000 articles were retrieved.

A series of recommendations were included in Table 2 of the Quick Reference Guide. Recommendations were for acetaminophen and:

"Prescribed pharmaceutical methods: "other NSAIDs"

"Prescribed physical methods: manipulation (in place of medication or a shorter trial if combined with NSAIDs)"

Significantly, the AHCPR study specifically defined spinal manipulation as the type of manipulation used by all chiropractors.

The Rand Corporation concluded that chiropractors offer 90 percent of the manipulation services in the U.S. The pharmaceuticals address only the symptoms.

The Associated Press and major newspapers throughout the country immediately recognized that the AHCPR study, published on Dec. 8, 1994, was a boon to chiropractors and a setback for medical doctors. For example only, see the announcements [on that day] in the Washington Post, Chicago Tribune, Chicago Sun-Times, and Los Angeles Times.

In July 1998, the Annals of Internal Medicine, published jointly by the American College of Physicians and the American Society of Internal Medicine, stated:

The Agency for Health Care Policy and Research (AHCPR) recently made history when it concluded that spinal manipulative therapy is the most effective and cost-effective treatment for acute low back pain Perhaps most significantly, the guidelines state that unlike nonsurgical interventions, spinal manipulation offers both pain relief and functional improvement.

Trigon's Economic Motivation

Trigon argued that it had no economic motivation to harm chiropractors or steer patients to medical doctors and away from chiropractors. It acknowledges that its largest cost category is payments to health care providers. Trigon elected to pay chiropractors 40 percent less than MDs for the identical service, notwithstanding chiropractors' superior skills in these areas. Chiropractors were the only one of five physician groups recognized by Trigon that suffered this unjustified reduction.

If Trigon were motivated only by economic concerns, it would not pay medical doctors more to provide inferior care than it pays chiropractors who provide preferred care. That Trigon pays medical doctors more demonstrates that Trigon is not making an independent economic judgment. It is making a collusive judgment in combination with medical doctors. The collusion is shown in what follows.

The 1994 AHCPR Guidelines Induced a Major Overt Act of the Conspiracy

Although the federal government's Clinical Guidelines were freely available, Trigon and its co-conspirator medical doctors and medical associations rewrote the federal guidelines to create "provincial" guidelines, that specifically omitted the recommendation of chiropractic manipulation, in an attempt to prevent more referrals to chiropractors. Trigon's Managed Care Advisory Panel voted that the rewritten guidelines were "referral" guidelines.

Because manipulation referral could only be to chiropractors and a handful of osteopaths, the conspirators had to change the AHCPR guidelines to avoid replacement of medical physician treatment by more efficient and effective chiropractic treatment, and consequent transfer of Trigon insurance payments from medical doctors to chiropractors. It also gave the competitive medical doctors a shield against malpractice claims arising from a failure to refer. The economic importance of this "transfer" is based on back pain being the second leading cause of visits to medical physicians; the leading cause of disability of those under age 45; and costing an estimated $20 billion to $50 billion per year nationally.

Professor Schifrin, the appellants' economic expert, estimated that unhindered referrals would have resulted in a transfer of more than $60 million from Trigon's medical physician network to doctors of chiropractic, without any significant increase in cost to Trigon, with improved health and less time off work for Trigon insureds.

Trigon Conspired With Outside, Independent Medical Societies

As a threshold matter, Trigon contended that the medical doctors who consulted with Trigon and approved its provincial guidelines were allegedly acting only as agents of Trigon, who cannot legally conspire with Trigon, because "the Managed Care Advisory Panel was chaired by an officer of Trigon, and Trigon appointed medical doctors to this committee for the purpose of obtaining their input, advice, and expertise. " The clear documentary evidence was directly to the contrary:

Trigon's internal review process included consultation with, and approval by representatives appointed by the Virginia chapter of the American Academy of Pediatrics, the Virginia chapter of the American Academy of Family Physicians, the Virginia Society of Internal Medicine, the Virginia chapter of the American College of Physicians, the Virginia chapter of the American College of Surgeons, the Virginia Obstetrical and Gynecological Society, the Medical Society of Virginia, the University of Virginia School of Medicine, Eastern Virginia Medical School and the Medical College of Virginia.

Every single society represents direct competitors of chiropractors and has a direct motivation to prevent insurance payment transfers.

What emerged from the conspiracy was a historical and scientific distortion of their content. According to Dr. Scott Haldeman, a recognized authority and member of the AHCPR panel:

By omitting the AHCPR's definitions of manipulation, Trigon and its Managed Care Advisory Panel materially altered the recommendations of the AHCPR. That alteration created a Trigon guideline that did not recommend the manipulation that is provided primarily by doctors of chiropractic, as did the AHCPR

guidelines. A point that became evident from the AHCPR guidelines was that manipulation was the only treatment approach that required a medical physician, in most instances, to make a referral of a patient with uncomplicated low back pain. The inevitable, and obviously intended, consequence of Trigon's and the Managed Care Advisory Panel's alteration of the AHCPR guideline, is to deprive patients of the benefit from spinal manipulation as practiced by doctors of chiropractic, and to deprive doctors of chiropractic of the opportunity to treat those patients.

Additional Overt Acts of the Conspiracy

Trigon and its co-conspirators committed several other acts in furtherance of the continuing conspiracy, most originating prior to 1996 and of which appellants were denied discovery. In 1988, Trigon imposed a $500 cap on manipulation services, the mainstay of chiropractic care. Then, in approximately 1992, Trigon reduced ancillary service reimbursement to chiropractors to 70 percent of that paid to medical doctors for the same service. In 1996, shortly after the initial dissemination of the guidelines, Trigon dropped the rate from 70 percent to 60 percent. Chiropractors were the only group of Trigon's "physicians" to whom this cut was applied.

In 1997, Trigon refused to apply the government's RBRVS value standards, to spinal manipulations by chiropractors, by "leveling" the payment for manipulation of various regions of the spine, regardless of the number of regions treated by the chiropractor.

2003 (Nov 11): e-mail forwarded from J.C. Smith, M.A., D.C. (jcsmith@smithspinalcare.com):

Trigon on Trial by George McAndrews, Esq.

Publisher's note: This marks the first time someone outside our organization has written an article for my "Report of My Findings" column. I feel the work attorney George McAndrews is once again doing for our profession is so important that readers need to hear about it directly from him.

-Donald M. Petersen Jr., editor/publisher, Dynamic Chiropractic

Are Trigon Blue Cross/Blue Shield's actions the medical profession's latest attempt to keep chiropractic in check - or destroy it altogether? In the publisher's column, George McAndrews, lead attorney for the ACA-led lawsuit against Trigon, et al., presents a convincing outline of the conspiracy.

Undoubtedly, some of you have heard or read, from time to time, comments from those who are hostile either to the Trigon litigation, or to the American Chiropractic Association and/or its leaders, questioning what is going on in the courtroom with the Trigon lawsuit. I read some comments stating that the ACA's attempt to link what was happening in the Trigon case with the Wilk case was misleading. I have to say, I was a little bit disturbed when I saw that.

If you can read the most recent brief [please see www.chiroweb.com/trigon] and not see a total connection between the AMA's effort to wipe you out, and what Trigon and its medical directors are doing (and have been doing), then I'm missing something. As I explain in the brief, the Wilk injunction lopped off the head of the octopus, but the tentacles are still alive and well all over the United States.

Many of the things mentioned in the pages of this brief were not mentioned by Judge Jones at all in his 18-page summary judgment decision. I am perplexed at how he was able to evaluate this case without taking into consideration the historical background and the interconnected links of the identical issues. [For more information on the Trigon lawsuit, please see the following online articles:]

www.chiroweb.com/archives/18/20/01.html
www.chiroweb.com/aca/archives/3_02/02.html
www.chiroweb.com/aca/archives/10_02/02.html
www.chiroweb.com/archives/21/12/18.html

I was making my argument in Abingdon, Va., and the judge asked me the same question three times. He said, "Why do you think they (MDs) don't want to refer, or why would Trigon not want them referring?" I replied, "Economic greed. Seventy percent of back pain dollars go to MDs. They want to prevent the slippage of that excess money from going over to chiropractors, and Trigon is nothing but the agent of the economic competitors, the medical physicians."

He said, "You don't understand my question. Why don't they want to refer? They're trained in school to refer. They refer to everybody." I said, "No, they refer within the medical model, because it's 'I scratch your back, you scratch my back.'"

He said, "You're not understanding me. Why don't they refer?" I responded again: "Because they have been told not to refer to chiropractors, and if MDs don't refer to chiropractors, MDs make more money just by keeping the patients in the medical model, rather than the chiropractic model." He replied: "But Mr. McAndrews, that sounds to me like a cultural discrimination, rather than an economic one. And I understand your point that the medical profession has not sufficiently at all recognized the superior advantages of chiropractic, but again, it sounds more like a cultural or educational deficiency."

In my introductory comments to the Fourth Circuit, I said no other court has ever treated the antitrust laws like substitute civil rights cases. There was clearly no need for the conspiracy, and the proven overt actions in furtherance thereof, if merely the laws of nature or the law of survival of the fittest, were benignly allowed to take place. The reason they had to come together in a conspiracy was because of the way the AHCPR guidelines were written by the federal government. They had to refer, and most of those referrals had to go to chiropractors. They couldn't allow that to stand.

Why? Because if patients got on the medical physician turntable - no functional improvement, just painkillers, up to and including making them zombies - they would end up in the torture chambers of the surgery room. And then somebody would mention the (AHCPR) guidelines to them, and there would be a lawsuit for failure to refer. Think about that. They had to take referral out.

Now, what evidence do we have?

We have the minutes of the Managed Care Advisory Panel, made up of about five MDs from Trigon and a representative appointed by every competitive medical society in the state of Virginia. Nowhere in Judge Jones's opinion do you see that.

We are talking about where the money goes, and we're talking about official government guidelines that said it should be going to chiropractors, because you should be referring patients, and you don't have anyone to refer them to, other than chiropractors.

Now, I'm just giving you an overview of what's going on, but listen to the echo from the Wilk case. This isn't me talking, it's the Court of Appeals talking.

The purpose of the Wilk boycott was to contain and eliminate the chiropractic profession. This conduct constituted a conspiracy among the AMA and its members, in an unreasonable restraint of trade, in violation of Section One of the Sherman Act. In 1967, the AMA Judicial Council said it was unethical for a physician to associate professionally with chiropractors. "Associating professionally" was defined as making referrals of patients to chiropractors. This opinion was widely circulated to every member of the AMA, and was sent by the AMA to 56 medical specialty boards and associations. As noted by the Court of Appeals, some medical physicians, such as orthopedic surgeons, internists and general practitioners, are in direct competition with chiropractors in this market.

You know who was on that Trigon advisory panel that approved and endorsed the fraudulent back pain guidelines of Trigon? The appointees of the state orthopedic surgeon group, the state internal medicine group, the state pediatric group - name any medical group, and they had a member on the panel. But not one chiropractor. Not one osteopath. Not even one physical therapist was shown these guidelines.

Dr. Scott Haldeman, who was on the AHCPR government panel, has testified that the people who wrote those back pain guidelines were either fraudulent or stupid. I've used my language. You read his language. [Please see www.chiroweb.com/trigon.]

The judge didn't know what to do with Dr. Haldeman's testimony. All he had was an affidavit, and you will read that it is illegal on a motion for summary judgment for a judge to balance credibility. Credibility is for a jury. There was no way he could hurdle over Dr. Scott Haldeman's direct testimony - the world's greatest genius on these particular guidelines.

Do you know what the judge said? He said Dr. Scott Haldeman's credibility is razor-thin. The Supreme Court and the Fourth Circuit have said you cannot judge credibility on a motion for summary judgment. Jurors have to see human beings to judge credibility. You can't judge credibility from a document.

I cannot believe that this case isn't going to be remanded for a full trial on the merits. (Granted, I can't guarantee any outcome because I'm not the judge.) And the information in it is going to hurt Trigon and all those who duplicate their anti-chiropractic tactics, because it will be published by a court of appeals. And the chiropractors have to learn, just like in the Spokes of Chiropractic Progress [found on page 35 of this issue], that knowledge shall set you free. But it won't help you if you don't tell someone about it.

The Spokes of Chiropractic Progress should be cut out and posted in every chiropractic waiting room; sent to every MD in the country; given to every government official, every governor, congressman, and senator; posted on bulletin boards at hospitals; sent to unions, school boards, the Knights of Columbus - you name it.

I have no doubt at all that the Spokes of Chiropractic Progress, and the position we took in the trial court, were partially responsible for the AMA House of Delegates introducing a resolution that the medical schools should incorporate neuromusculoskeletal education into their curriculum. That is because they have now found out that there's this glaring gap between pharmaceutical medicine and surgery, and the MDs have no knowledge whatsoever on how to adequately care for musculoskeletal problems. They are humiliated, and the statements on the Spokes of Chiropractic progress come from their best scholars and from the best government studies. Somehow, that information has got to get out.

When you see or hear someone complain about the Trigon litigation, and say that it has nothing to do with Wilk - that it's a misleading connection - after you've read the brief, [www.chiroweb.com/trigon], deluge those people with copies or e-mail them a link and tell them to read it.

Whatever the agenda is, it's not friendly to the chiropractic profession. If we can get this case turned around, there are enormous possibilities for the profession in the entire United States.

Again, since I have a captive audience, many DCs do not realize that the AMA's expert economic witnesses, e.g., Dr. Lynk from the University of Chicago's lexicon agency, and Dr. Myron Stano, at the Wilk trial, agreed that between 1978, when the Wilk case started, and 1985, with the relaxation of the boycott, chiropractic incomes went up 250 percent. They went from $25,000 to an average of $60,000. If you take $35,000 and multiply it by 30,000 chiropractors, you have a billion dollar-plus increment added to chiropractic incomes by the cessation of that boycott. Think about that.

Now, many of you may not know (but you certainly ought to), that when we first filed the Trigon suit, it included as a defendant Blue Cross/Blue Shield of America, headquartered in Chicago. (You will see many of their documents quoted in the brief.) They knew what we had on them. We had meetings with them, and they suggested that an accommodation could be reached, if we would drop them from the active lawsuit.

Since the purpose of all litigation is dispute resolution, we allowed them to show good faith. At that time, three groups were contending to be included in the federal employee plan: Massage therapists, acupuncturists and chiropractors were stomping at the gates to get in. As a sign of good faith, chiropractic was included for the first time in the federal employee plan that covers 3 to 4 million federal employees and up to 9 million dependents.

Blue Cross/Blue Shield was told that the premiums could not be increased one penny. The government was in a budget crunch. Apparently, they had to take $125 million from the general reserves that were going to medical physicians and hospitals, and allocate it to the chiropractic benefit. Since that time, the government has told Blue Cross/Blue Shield that they must include upwards of another $125 million for ancillary chiropractic modalities.

My math says that's a quarter of a billion dollars now reserved for chiropractors that was never available before. In four years now, that's a billion dollars. Think about that. That money would not have shown up, I contend, if we hadn't included national Blue Cross/Blue Shield as a defendant.

In some places in the U.S., national Blue Cross/Blue Shield has become an advocate of peace and tranquility with the chiropractors - but Trigon refused to do so. In effect, Trigon told the ACA and the Virginia Chiropractic Association (VCA), when they went to a meeting: Stuff it in your ear. If you don't like it, what are you going to do about it?"

Well, we're doing something about it.

This brings up something else. In the last few months, I have been receiving perhaps three and four calls a week from chiropractors interested in filing copycat suits. This trend has increased since the brief was published. The same thing happened in the Wilk case. Lawyers knew that the Wilk case was going forward and, particularly after the first reversal, which sent the case back for a new trial with parameters, the calls increased.

Around the country, copycat suits were filed during the Wilk case. Here is the danger of copycat suits. These copycat suits ran out of gas. They didn't have the will to go another five years into the future, so they accepted settlements that were less than desirable.

Toward the end of the Wilk trial, the chairman of the board of trustees of the AMA was testifying on a Saturday afternoon. We were finished questioning when Judge Getzendanner said, "Doctor, where are you going now?"

He said, "I'm going back to Salt Lake City. I had to move all my patients from this week up to next week because of the trial."

She said, "Call your nurse and move them to another day. Get on the phone and call the trustees and try to figure where, out of your budget, you're going to get the money you're going to have to pay in this case. The plaintiffs are winning this case. This testimony confirms that."

At that point, AMA counsel said "Your honor, we have all these settlements with chiropractors across the country, on essentially the same alleged facts. McAndrews refuses to settle with us. What's good for chiropractors out there, why isn't it good enough for him."

Judge Getzendanner turned to me and asked, "What's your response?"

That was a dangerous position to be in, because none of those copycat suits had gotten an injunction against the AMA, where you may go to jail if you violate it. I said the AMA has such power that when they settle, they suddenly declare victory. I said the AMA finishes up a lawsuit, pays some money, signs some papers, and then says they were right all along, and there's no admission of guilt.

I was throwing papers at her. And she said, "You know, he's got a point here. I think I'll send this to mediation." She said, "I'd like to have Judge Bua, who was the original judge at the trial. Would you agree to have him mediate?"

We went into his chambers. Twenty-seven lawyers, just crammed in. Two on our side, 25 on the other side. And Judge Bua said, "George, what is it you want?" I said, "I want an injunction." He said, "That sounds fair." He looked at them, and a voice said, "We're not going to give them an injunction. There's no way he can win this lawsuit."

Judge Bua stared at the man who'd said that and asked, "Who are you?"

The guy said, "I'm Kurt Johnson, vice president and general counsel of the AMA."

Judge Bua reached into his pocket, took out a ring of keys, put them on the coffee table and said, "My house against your house. You're going to lose."

I believe that when fair-minded people see what happened with Trigon, there is no way they can agree with what the medical physician-dominated Blues - not all of them, but groups of them, like Trigon - have done to chiropractors and to the health, well-being and safety of the patient population.

You read it and make up your own mind, but darn it, read it. It's your profession. They're your patients. Know what's going on. Be willing to make copies of the brief [www.chiroweb.com/trigon] and pass it on. It isn't argument; it's quotations. You'll understand exactly what's going on.

Finally, make absolutely certain that you copy [or download a printable PDF version from www.chiroweb.com/spokes] and distribute thousands of the Spokes of Chiropractic Progress [found on page 35 in this issue]. Educate the entire population on the benefits that chiropractic brings to the health care problems of this nation. Remind everyone that a chiropractic adjustment is far preferable to a surgical knife in the spine, and/or potential drug addiction, à la Rush Limbaugh. Everyone knows that when all you have is a hammer, every problem looks like a nail. The medical profession is faced with that very problem when confronting neuromusculoskeletal problems.

Thank you.
George P. McAndrews, Esq.
Chicago, Illinois

2004 (Mar): e-mail from Tom Lawrence, D.C. ():

Hello Joe,

I do not know of any particular thing you might look for at the Texas school. I wrote you about the Commemoration of Dr. Carver, many years ago, into the TCC Hall of Fame. We had several dozen Carver alumnae there for a Carver reunion. I don't have the registration list and have no knowledge of who might still be with us. I included the list with the papers and books I gave to Dr. Leach. I imagine he has disposed of most of the junk I sent him. I wish I had kept the records and transcripts of the Norville trial in Mississippi. In all of our sordid history, that was the most outlandish of all attacks by colleagues upon a colleague. It happened and it should have been recorded and preserved for posterity. I am befuddled by my loss of communication and friendship with Dr. Leach.

I wish it might be possible for you to meet my son and his family while you are in Houston. His home is near the Houston Bush International Airport and his office is very near to the airport. His home phone is (281)893-5450. Office phone is (281)446-7191. You have his e-mail. Give his a call. I would like for him to thank you for your many kindnesses to me.
Tom

2004 (May 13): e-mail forwarded:

To: All USA Members
From: Rob Sherman
APPEALS COURT DISAPPOINTS, BUT WE AREN'T DONE YET

I'm sure you've heard by now that the 4th Circuit Court of Appeals has come down with its ruling, rejecting our appeal in the Trigon lawsuit. The ACA will petition for a rehearing and appeal to the full panel of judges in the 4th Circuit.

One of the most significant parts of our case was our contention that a conspiracy existed between Trigon Blue Cross Blue Shield and the medical specialty societies in Virginia to assure that patients with musculoskeletal conditions were diverted to medical doctors instead of doctors of chiropractic, a clear violation of antitrust laws. Part of our evidence was the existence of a committee established by Trigon to review the AHCPR guidelines and recommend appropriate protocols for referring patients to chiropractic doctors.

The committee was appointed from representatives submitted by medical specialty associations from throughout the state of Virginia, but no doctors of chiropractic were appointed to the committee. The committee had policymaking authority, with a vote taken of their actions and minutes recorded. Instead of publishing the positive results of spinal manipulation that had been the highlight of the AHCPR report, they took a narrow view of the value of spinal manipulation, making it the secondary choice of treatment and creating a higher threshold for referring patients to chiropractic.

Two separate entities must be involved in order to have a conspiracy. It was clear that by appointing competitors of the chiropractic profession to determine the protocols for referrals, the results would be unfavorable to chiropractors and to their patients. But despite the clear intent of the committee and its purpose, the courts considered the committee to be a part of Trigon, rather than a separate entity. The court found that Trigon's actions were more akin to a hospital's credentialing process. But we believe that comparing the type of coverage payment and referral policymaking decisions of Trigon and the selected medical societies to a hospital credential review process is comparing apples and oranges. Just imagine reviewing medical doctors without getting input from medical doctors. In our case, Trigon had no business whatsoever in distorting already researched and published federal guidelines. It decided to "prescribe" contraindicated medical care for back pain patients. This action favored its non-employee medical doctors who voted on the false "prescriptions" for the benefit of their appointing medical trade association.

The ACA has 14 days to petition the panel for a rehearing and simultaneously to petition the entire 4th Circuit Court of Appeals. All of this is a precursor to petitioning the U.S. Supreme Court for a hearing. None of this will be easy. There is no guarantee along the way that our petitions will be heard. But we have no choice; if the antitrust laws have any meaning at all, we have to pursue this to the end. Our patients deserve better and our doctors do as well. Look to this report for further details.

ANTHEM PAYS ITS OWN

If there is any doubt that our cause in the Trigon suit is just, consider the following. On or about April 7, 2004, it was reported

that the top executive of Anthem, Inc., was set to receive a $42.5 million stock and cash incentive package as a reward for the health insurer's rapid growth over the past three years. That is double the amount that all 961 of the chiropractors in Virginia received from Anthem (formerly Trigon) for the year 2001. The average payment to chiropractors per patient went from $357 in 1997 to $277 in 2001. Anthem's actions indicate that its top priorities are now profits and executive payouts rather than the reimbursement of costs for necessary and effective health care.

References:

Campion, Frank D. *The AMA and U.S. health policy since 1940*. Chicago: Chicago Review Press (&AMA), 1984

Chapman-Smith, David. The Wilk case. *Journal of Manipulative & Physiological Therapeutics* 1989 (Apr); 12(2):142-6

Dintenfass, Julius. U.S. charges American Medical Association as health trust. *The Chiropractic Journal* (NCA) 1938 (Sept); 7(9): 25-7

Gevitz, Norman. The chiropractors and the AMA: reflections on the history of the consultation clause. *Perspectives in Biology & Medicine* 1989 (Winter); 23(2): 281-99

McAndrews, Jerome F. The antitrust suit: what a successful outcome may bring *Digest of Chiropractic Economics* 1978 (Nov/Dec); 21(3): 28

Rogers, Loran M. Editorial. *National Chiropractic Journal* 1943 (Feb); 12(2): 6

Trever, William. *In the public interest.* Los Angeles: Scriptures Unlimited, 1972

Wardwell, Walter I. *Chiropractic: history and evolution of a new profession*. St. Louis: Mosby, 1992

Wilk vs. AMA: an interview with George P. McAndrews, Part 1. *ACA Journal of Chiropractic* 1987 (Oct); 24(10): 26, 28-31

Wilk vs. AMA: an interview with George P. McAndrews, Part 2. *ACA Journal of Chiropractic* 1987 (Nov); 24(11): 39-45

Winterstein, James F. Wilk vs. AMA: the experiences of an expert witness. *ACA Journal of Chiropractic* 1987 (Oct); 24(10): 32-4